House of Representatives/90th Congress 2d Session/Document No. 89-552

# Federal Courts and the First Amendment

**Resolved:**

**That One or More Present Existing Restrictions on the First Amendment of Press and/or Speech Established in One or More Federal Court Decisions Should Be Curtailed or Prohibited?**

NEWARK PUBLIC LIBRARY

SEP 23 1986

U. S. GOVT. PUBL. DEPOSITORY 328

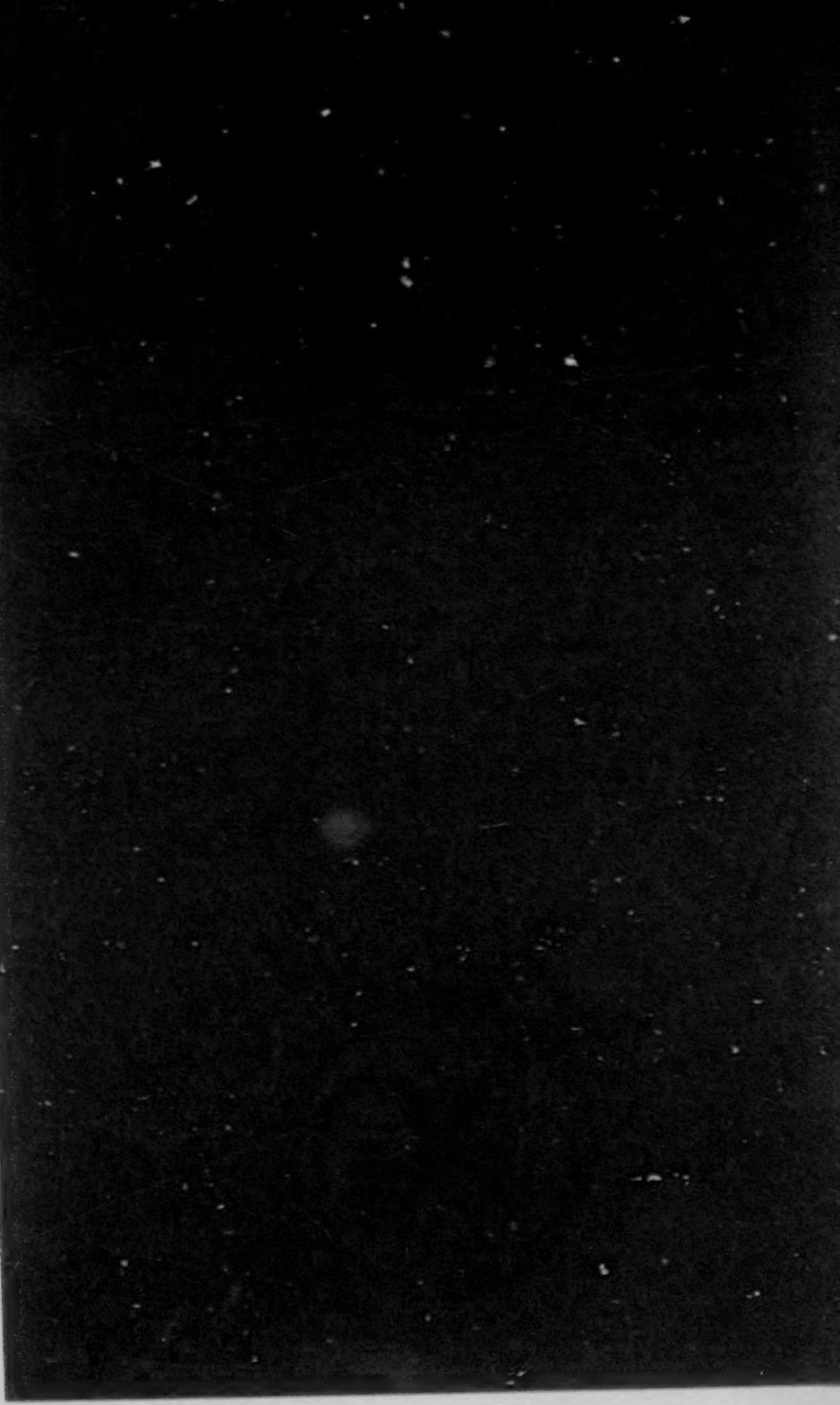
Intercollegiate Debate Topic
1966-1967

Pursuant to Public Law 88-246

Compiled by the Congressional Research Service
Library of Congress

READEX FICHE best copy available

Y1.1/7:



House of Representatives/99th Congress 2d Session/Document No. 99-252

# Federal Courts and the First Amendment

***Resolved*:**

**That One or More Presently Existing Restrictions on the First Amendment of Press and/or Speech Established in One or More Federal Court Decisions Should Be Curtailed or Prohibited?**

Intercollegiate Debate Topic
1986-1987

Pursuant to Public Law 88-246

Compiled by the Congressional Research Service
Library of Congress

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON: 1986

PUBLIC LAW 88-246, 88TH CONGRESS, S. 2311,
DECEMBER 30, 1963

AN ACT To provide for the preparation and printing of compilation of materials relating to annual national high school and college debate topics.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Librarian of Congress is authorized and directed to prepare compilations of pertinent excerpts, bibliographical references, and other appropriate materials relating to (1) the subject selected annually by the National University Extension Association as the national high school debate topics and (2) the subject selected annually by the American Speech Association as the national college debate topic. In preparing such compilations the Librarian shall include materials which in his judgment are representative of, and give equal emphasis to, the opposing points of view on the respective topics.

Sec. 2. The compilations on the high school debate topics shall be printed as Senate documents and the compilations on the college debate topics shall be printed as House documents, the cost of which shall be charged to the congressional allotment for printing and binding. Additional copies of such documents may be printed in such quantities and distributed in such manner as the Joint Committee on Printing directs.

Approved December 30, 1963.

CONTENTS


FOREWORD ..... v

I. FREEDOM OF EXPRESSION: CURRENT CONTROVERSIES: A SELECTED ANNOTATED BIBLIOGRAPHY ..... 1

A. FREEDOM OF SPEECH AND EXPRESSION ..... 2
B. FREEDOM OF THE PRESS ..... 10
C. BROADCASTING ..... 17
D. LIBEL AND SLANDER ..... 20
E. PORNOGRAPHY, OBSCENITY, AND SEX AND VIOLENCE IN THE MEDIA ..... 28
F. EXTREMIST AND UNPOPULAR SPEECH ..... 38
G. THE JUDICIAL SYSTEM AND THE COURTS ..... 41
H. NATIONAL SECURITY AND THE MILITARY ..... 48
I. ACADEMIC AND SCIENTIFIC FREEDOM ..... 59
J. PUBLIC SCHOOLS AND LIBRARIES ..... 63
K. POLITICS AND ELECTIONS ..... 69
L. COMMERCIAL SPEECH AND CORPORATE SPEECH ..... 75
M. EMPLOYEE AND LABOR RIGHTS ..... 79
N. NEW TECHNOLOGIES ..... 82

II. FREEDOM OF EXPRESSION: A GUIDE TO SOURCES OF INFORMATION ..... 87

A. RESEARCH SOURCES ..... 88
B. BOOKS ..... 89
C. JOURNAL ARTICLES ..... 89
D. NEWSPAPER ARTICLES ..... 92
E. GOVERNMENT PUBLICATIONS ..... 94
F. DISSERTATIONS ..... 95
G. LEGISLATIVE INFORMATION ..... 95
H. BILLS AND RESOLUTIONS ..... 96
I. CONGRESSIONAL PUBLICATIONS ..... 97
J. AGENCIES AND ORGANIZATIONS ..... 98
K. LEGAL CASES INVOLVING FREEDOM OF EXPRESSION: A CHRONOLOGICAL LIST ..... 98

Congressional Research Service
The Library of Congress

Washington, D.C. 20540

FOREWORD

The 1986-1987 Intercollegiate debate topic is "Resolved: that one or more presently existing restrictions on the First Amendment of press and/or speech established in one or more Federal Court decisions should be curtailed or prohibited."

In compliance with Public Law 88-246, the Congressional Research Service of the Library of Congress prepared this compilation of bibliographic references to assist collegiate debaters in researching this year's topic. To provide materials to debaters in a timely manner and to comply with the budget constraints indicated by the Gramm-Rudman-Hollings Act, this year's debate manual consists of an annotated bibliography and guide to sources for additional research. The annotated citations from books, periodicals, and other documents were selected to provide background information, an overview of the principal issues, and a balance of opposing views. Bibliographic references were chosen to provide a wide range of information and opinions. In selecting items for this bibliography, the Congressional Research Service (CRS) has attempted to sample the wide spectrum of opinions reflected in current literature on these questions. No preference for any policy is indicated by the selection or positioning of articles herein, nor should one infer CRS disapproval of any policy or article not included.

The annotated bibliography covers such topics as: freedom of speech and expression; freedom of the press; broadcast[illegible]; libel and slander; pornography, obscenity, and sex and violence in the media; extremist and unpopular speech; the judicial system and the courts; national security and the military; academic and scientific freedom; public schools and libraries; politics and elections; commercial and corporate speech; employee and labor rights; and the implications of and for new communications technologies.

U.S. Government documents listed in the bibliography may be found in most U.S. Government depository libraries, which can be identified by your local public library. The Library of Congress cannot distribute copies of these or other materials to the debaters.

Information is included at the end of this volume on additional resources and other publications that may be useful in expanding and updating this compilation.

The bibliography and research guide were prepared by George H. Walser, Senior Bibliographer in Government and Law, Library Services Division. John M. White provided the secretarial production of the bibliography and research guide. Sherry Shapiro, Senior Bibliographer, Library Services Division, coordinated the preparation of this debate manual for publication.

Good luck to each debater in researching, preparing, and presenting arguments on this year's topic.

Joseph E. Ross
Director, Congressional Research Service

# I. FREEDOM OF EXPRESSION: CURRENT CONTROVERSIES
## A SELECTED ANNOTATED BIBLIOGRAPHY

This bibliography is designed to help college debaters with research on the 1986-1987 Intercollegiate Debate Topic on Federal court decisions regarding freedom of speech and the press.

The majority of the citations in this annoated bibliography were obtained from the computerized Congressional Research Service Bibliographic Database, created and maintained by the Library Services Division. Other material was selected from collections within the Congressional Research Service and elsewhere in the Library of Congress.

The author wishes to thank his colleagues in the Congressional Research Service for their assistance in the preparation of this bibliography. Thanks are also extended to Richard Gigax, Head, Subject Specialization Section, Library Services Division, who did preliminary editing, to Sherry Shapiro, Senior Bibliographer, who oversaw many of the details of production, and to John M. White for technical production work.

---

Materials in this bibliography may be located at a nearby public, research, or depository library. The Congressional Research Service cannot provide debaters with copies of the items listed.

---

## A. FREEDOM OF SPEECH AND EXPRESSION

Barron, Jerome A. Dienes, C. Thomas.
Handbook of free speech and free press. Boston, Little, Brown, c1979. 756 p.

Bogen, David S.
Bulwark of liberty: the Court and the First Amendment. Port Washington, N.Y., Associated Faculty Press, c1984. 208 p. (National university publications) (Multidisciplinary studies in law and jurisprudence)

Bogen, David S.
The origins of freedom of speech and press. Maryland law review, v. 42, no. 3, 1983: 429-465.
Article examines six sources of First Amendment expression guarantees: "the parliamentary privilege of freedom of debate, the abolition of prior censorship in England, the letters of 'Cato,' the theory of natural rights, the growth of religious toleration, and the limited function of a national government in a federal system."

Bollinger, Lee C.
Free speech and intellectual values. Yale law journal, v. 92, Jan. 1983: 438-473.
Article assesses the theories about the functions of free speech. "Free speech is a social context in which basic intellectual values are developed and articulated, where assumptions about undesirable intellectual traits are offered and remedies proffered."

Brandt, Thomas K.
Freedom of speech. Annual survey of American law, v. 1981, no. 1, 1981: 31-56.
Article assesses significant 1980 Supreme Court decisions involving extension of protection to nontraditional speech and public forums.

Chaffee, Zechariah.
Free speech in the United States. New York, Atheneum, 1969. 634 p. (Atheneum paperbacks, 1937)
First published in 1941.

Chevigny, Paul G.
Philosophy of language and free expression. New York University law review, v. 55, May 1980: 157-194.
"Drawing from the philosophy of language, Professor Chevigny offers a rational for the right of free speech that is independent of individualistic political philosophies. He suggests that since words have no meaning without discourse, free speech depends on a societal commitment to the right of the speaker to reach his audience and the right of the audience to listen and answer. To ignore these rights, he argues, is to ignore the very essence of speech."

Claflin, Stephen T., Jr.
A radical proposal for full use of free speech. New York, Philosophical Library, 1979. 105 p.

Cover, Robert M.
The Left, the Right and the First Amendment: 1918-1928. Maryland law review, v. 40, no. 3, 1981: 349-388.
Ariticle assesses the Supreme Court's "commitment to deliberative politics that emerged in the free speech opinions of Holmes and, especially Brandeis between 1919 and 1927." The author considers both the problem of disorderly politics and the problem of ideology and intent in political communication.

Cox, Archibald.
Freedom of expression in the Burger Court. Harvard law review, v. 94, Nov. 1980: 1-73.
"The major first amendment cases decided during the past [1979] Term . . . furnish a convenient occasion to review the work of the Burger Court in terms not only of the balances struck but also of the performance of its responsibility for the body of law defining freedom of speech and of the press under the first amendment."

Doppstadt, Eric.
First Amendment II. Annual survey of American law, v. 1983, no. 3, 1983: 569-599.
Article contends that "although the Court has strengthened first amendment protection in several areas, its opinions reflect a troubling lack of standards. Commentators have expressed concern at the Burger Court's failure to construct a coherent body of principles in interpreting the first amendment. The cases decided in the 1981 Term demonstrate the Court's continued inability and unwillingness to articulate standards."

Emerson, Thomas I.
The affirmative side of the First Amendment. Georgia law review, v. 15, summer 1981: 795-849.
Article asserts that the First Amendment should be viewed "as a significant factor in efforts to promote freedom of expression or to impose limits on governmental participation in the system."

---
First Amendment doctrine and the Burger Court. California law review, v. 68, May 1980: 422-481.
Article evaluates recent Supreme Court decisions on the system of freedom of expression, holding "that because of the Court's predilection for ad hoc balancing, its failure to take proper account of the dynamics of suppression, and its unwillingness to develop innovative doctrines in response to changing needs, the system has become less effective at serving its underlying values."

---
The system of freedom of expression. New York, Random House, 1970. 754 p.

---
Toward a general theory of the First Amendment. New York, Random House, 1966. 245 p.

Farber, Daniel A.
Content regulation and the First Amendment: a revisionist view. Georgetown law journal, v. 68, Feb. 1980: 727-763.
"Despite its oft-stated adherence to the principle of content neutrality, the Supreme Court in recent years has upheld a number of restrictions that are obviously related to speech content. Unlike other commentators, Professor Farber argues that these cases are not wrongly decided, but that they reveal a pattern of principled decisionmaking."

The Federalist. Edited with introduction and notes, by Jacob E. Cooke. Middletown, Conn., Wesleyan University Press, 1982. 672 p.
First published in 1961.

The First Amendment in free society. Edited by Jonathan Bartlett. New York, H. W. Wilson, 1979. 199 p. (Reference shelf, v. 50, no. 6)

The First Amendment reconsidered: new perspectives on the meaning of freedom of speech and press. Edited by Bill F. Chamberlain and Charlene J. Brown. New York, Longman, 1982. 218 p. (Longman series in public communication)

The First freedom today: critical issues relating to censorship and intellectual freedom. Edited by Robert B. Downs and Ralph E. McCoy. Chicago, American Library Association, 1984. 341 p.
Revised edition of The First Freedom (1960).

Freedom of expression: a collection of best writings. Compiled by Kent Middleton and Roy M. Mersky. Buffalo, N.Y., W.S. Hein, 1981. 504 p.

Freedom of expression: theoretical perspectives; symposium. Northwestern University law review, v. 78, Dec. 1983: 937-1357.
Partial contents.--Unreasoned reasonableness: mandatory parade permits and time, place, and manner regulations, by C. Baker.--Criminal coercion and freedom of speech, by K. Greenawalt.--Freedom of expression: an essay on theory and doctrine, by M. Perry.--The First Amendment and economic regulation: away from a general theory of the First Amendment, by S. Shiffrin.--Must speech be special? by F. Schauer.--Review essay; the impossibility of a free speech principle, by L. Alexander and P. Horton.

Garet, Ronald R.
Community and existence: the rights of groups. Southern California law review, v. 56, July 1983: 1001-1075.
Article holds that "American constitutional law will not be a match for the process of 'modernization,' if that process has sealed the fate of social groups and destined them to wither away in favor of the state and its universal values."

Goldberger, David.
A reconsideration of Cox v. New Hampshire: can demonstrators be required to pay the costs of using America's public forums? Texas law review, v. 62, Nov. 1983: 403-451.
Article concludes that Cox v. New Hampshire "permits recoupment of government expenses in a way that burdens and discourages speech in public forums and is inconsistent with the priority accorded to speech in the public forum cases decided after Cox."

Guertin, Richard J. Wilson, Paul.
First Amendment. Annual survey of American law, v. 1980, no. 1, 1980: 145-189.

"Freedom of the press, guaranteed by the first amendment, . . . underwent extensive judicial and legislative scrutiny last year."

Haiman, Franklyn.
Speech and law in a free society. Chicago, University of Chicago Press, 1981. 499 p.

Hausdorff, Don.
The First Amendment--words and meaning. USA today (magazine), v. 110, May 1982: 24-26.
Reveals the complexity of the meaning of freedom of speech, press, and religion in the First Amendment to the Constitution and common misconceptions about these "rights."

Held, Virginia.
Free expression. Society, v. 21, Sept.-Oct. 1984: 49-56.
The author deals "with two aspects of our rights to free expression: the rights of reporters to gather news and the rights of citizens to have the means to express themselves. These are central to the workings of democratic society and to the pursuit of better lives and cultures."

Hemmer, Joseph J., Jr.
Free speech. Metuchen, N.J., Scarecrow Press, 1979. 297 p. (His Communication under law, v. 1)

Hentoff, Nat.
The first freedom: the tumultuous history of free speech in America. New York, Delacorte Press, 1980. 340 p.
A history of free speech in our country from earliest times to some of the controversial court cases of today invovling school demonstrations and the right of Nazis to march.

---
When nice people burn books. Progressive, v. 47, Feb. 1983: 42-44.
Examines instances in which liberals have allegedly practiced censorship or limited academic freedom.

History of free speech in decision making: readings and cases. Edited by James G. Backes, Donald J. Shields. Dubuque, Iowa, Kendall-Hunt Pub. Co., c1985. 275 p.

Hurwitz, Leon.
Historical dictionary of censorship in the United States. Westport, Conn., Greenwood Press, 1985. 584 p.

Kamm, Susan.
Pressure groups and censorship: an annotated bibliography. Newsletter on intellectual freedom, v. 30, Sept. 1981: 132-135.
"Focuses on the general aspects of groups whose activities may lead to inhibitions on free expression."

Kamp, Steven M.
Private abridgment of speech and the State constitutions. Yale law journal, v. 90, Nov. 1980: 165-188.
Comment "argues that the free speech guarantees contained in the fifty state constitutions are the appropriate vehicles for the protection of public forum and canvassing rights from private abridgment."

Karp, Walter.
Liberty under siege. Harper's magazine, v. 271, Nov. 1985: 53-58, 60-67.
"For nearly five years now the Reagan Administration has been engaged in an unflagging campaign to exalt the power of the presidency and to undermine the power of the law, the courts, the Congress, and the people."

Langway, Robert E., Jr.
The public forum and the First Amendment: the puzzle of the podium. New England law review, v. 19, no. 3, 1983-1984: 619-645.
Comment "concludes that in order to eradicate first amendment exempt enclaves among publicly owned property and to ensure that the use of newly acquired property for expressive activities is not prohibited, the Court must adopt the compatibility test in favor of traditional use as the single standard governing nontraditional forum property analysis."

Lewis, Robin F.
First Amendment I. Annual survey of American law, v. 1982, no. 2, 1982: 285-317.
"Recent decisions in the first amendment area reflect a continuing trend toward increased protection of widespread public access to information."

Mayton, William T.
Toward a theory of First Amendment process: injunctions of speech, subsequent punishment, and the costs of the prior restraint doctrine. Cornell law review, v. 67, Jan. 1982: 245-282.
Article argues that "the preference for subsequent punishment over injunctive relief diminishes the exercise of free speech by burdening it with costs that seem not yet comprehended." The author analyzes "common forms of process that are used to contain speech--administrative restraint, subsequent punishment, and preventive civil relief--in order to assess the costs incurred under each method," and expresses a preference for the injunction as a form of declatory relief.

Meiklejohn, Alexander.
Free speech and its relation to self-government. Port Washington, N.Y., Kennikat Press, 1972. 107 p.
First published in 1948.

Mill, John Stuart.
On liberty. Edited with an introduction by Gertrude Himmelfarb. Baltimore, Penguin, 1974. 187 p. (Penguin classics)
First published in 1859.

Morgan, Martha I.
The constitutional right to know why. Harvard civil rights-civil liberties review, v. 17, summer 1982: 297-353.
"This Article proposes a comprehensive theory of the right to know why and contrasts it with the Supreme Court's piecemeal approach to constitutional requirements."

Murphy, Paul L.
The meaning of freedom of speech: First Amendment freedoms from Wilson to FDR. Westport, Conn., Greenwood Pub. Co., 1972. 401 p. (Contributions in American history, no. 15)

Nagel, Robert F.
How useful is judicial review in free speech cases? Cornell law review, v. 69, Jan. 1984: 302-340.
Article suggests that "given the nature of the judicial process, it is implausible that judicial review can be expected to promote such systemic objectives" as creating a society that provides plentiful information and tolerates vigorous dissent.

O'Brien, David M.
The First Amendment and the public's "right to know". Hastings constitutional law quarterly, v. 7, spring 1980: 579-631.
Article "concludes that this 'right' is rooted neither in historical precedents nor in recent First Amendment decisions, and that the Supreme Court has properly permitted the Legislature to determine, as a matter of policy, the legitimacy of the public's interest in access to government facilities and materials."

---
Freedom of speech and free government: the First Amendment, the Supreme Court, and the polity. Virginia cavalcade, v. 33, summer 1983: 30-37.
"The Bill of Rights: a lively heritage. Fourth in a series."
"In historical perspective, the two hundred years of struggle for freedom of speech and of the press have seen a constant expansion of the scope of the First Amendment, extending its protection to more kinds of expression than political debate, and applying its principles to new communications technologies. Despite the dramatic changes in America's political, social, and economic life since the republic was founded, the central meaning of the First Amendment remains intact."

---
Reassessing the First Amendment and the public's right to know in constitutional adjudication. Villanova law review, v. 26, Nov. 1980: 1-62.
Article finds that despite diverse public and press claims for a right to know grounded in the First Amendment, the Supreme Court has instead recognized "that the hard questions posed by claims to a right to know are ultimately matters of public policy reserved for Congress, state legislatures, and the executive branches of government."

Pell, Eve.
The big chill: how the Reagan administration, corporate America, and religious conservatives are subverting free speech and the public's right to know. Boston, Beacon Press, c1984. 269 p.
Notes that conflicts over access to information and freedom of expression have been particularly acute in the 1980s. Claims that laws and government orders which limit First Amendment rights have a chilling effect which may go beyond the specified result of the regulation.

The Public's right to know. Washington, Congressional Quarterly, 1980. 187 p.
Reprints nine previously printed Editorial Research Reports on the topic of privacy vs. public benefit issues.
Contents.--Television in the eighties.--Supreme Court and the press.--Atomic secrecy.--Determining radiation dangers.--Assassinations investigation.--Census taking.--Freedom of Information Act: a reappraisal.--American's information boom.--Media reformers.

Rabban, David M.
The First Amendment in its forgotten years. Yale law review, v. 90, Jan. 1981: 514-595.

Article reviews the case law and legal scholarship on freedom of speech in the generation before World War I. The author claims these have been neglected as a result of the influential writings of Zechariah Chafee.

Redish, Martin H.
The content distinction in First Amendment analysis. Stanford law review, v. 34, Nov. 1981: 113-151.
Article challenges recent recommendations that judicial review of governmental regulation of the "content of expression" be stricter than those concerned with matters other than content. The author reviews the development of this content distinction in Supreme Court decisions and rejects it in favor of "a unitary mode of judicial review for all governmental regulation of expression."

---
The proper role of the prior restraint doctrine in First Amendment theory. Virginia law review, v. 70, Feb. 1984: 53-100.
Article concludes that "most of the arguments traditionally employed to justify special mistrust of judicial prior restraints as a means of speech regulation are unacceptable for one reason or another. Prior restraints instead should be disfavored over subsequent punishment schemes when and only when they abridge expression prior to a full and fair hearing."

Rembar, Charles.
For sale: freedom of speech. Atlantic monthly, v. 247, Mar. 1981: 25-32.
Argues that two 1980 Supreme Court decisions favored advertisers and political fundraisers with First Amendment protection, even though "what was involved was not a stand on a public issue but the naked effort to sell a product. The Court was elevating simple moneymaking to the constitutional level of political comment and artistic expression."

Schauer, Frederick.
Categories and the First Amendment: a play in three acts. Vanderbilt law review, v. 34, Mar. 1981: 265-307.
Article offers the use of three general categories of freedom of speech--coverage, varieties of speech, and rules--as a learnable, therefore workable, systematic framework for judicial decision-making.

Schlag, Pierre J.
An attack on categorical approaches to freedom of speech. UCLA law review, v. 30, Apr. 1983: 671-739.
Article suggests how the courts might develop a meaningful method of First Amendment analysis, specifically rejecting categorical approaches.

Shank, S. Adele.
Sticks and stones: homosexual solicitations and the fighting words doctrine. Ohio State law journal, v. 41, no. 2, 1980: 553-574.
Comment examines the Ohio State Supreme Court decision in State v. Phipps. "The Ohio Supreme Court's decision in State v. Phipps, upholding Ohio's same-sex solicitation statute, Ohio Revised Code section 2907.07(B), exemplifies the dangers of creating exceptions to the first amendment protection of speech."

Speaking & writing truth: community forums on the First Amendment. Robert S. Peck, Mary Manemann, editors. Chicago, Commission Public Understanding about the Law, American Bar Association, c1985. 174 p.

Starr, Isidore.
The idea of liberty: First Amendment freedoms. St. Paul, West Pub. Co., c1978. 234 p. (Great ideas in the law)

Stewart, Alva W.
The First Amendment in the Federal Courts: freedom of speech and the press. Monticello, Ill., Vance Bibliographies, 1985. 11 p. (Public administration series: bibliography P-1780)

Tedford, Thomas L.
Freedom of speech in the United States. New York, Random House, c1985. 473 p.

Tinder, Glenn.
Freedom of expression, the strange imperative. Yale review, v. 69, winter 1980: 161-176.
Argues that legitimate grounds exist for restricting freedom of expression, but "only if it is likely thus to be preserved or strengthened."

Turovsky, Ronald Baxt.
Heffron v. International Society for Krishna Consciousness, Inc.: confusing free speech with free exercise rights. California law review, v. 71, May 1983: 1012-1029.
Case note concludes that "the free exercise clause and the free speech clause protect very different rights. In Heffron, the [Supreme] Court ignored this fundamental difference and equated religion and speech."

VanAlstyne, William.
A graphic review of the free speech clause. California law review, v. 70, Jan. 1982: 107-150.
Article examines the development and meaning of the First Amendment, focusing on "the most traditional and recurring problem of the First Amendment: the extent to which government may ban, criminalize, or regulate what private citizens seek to say."

---
Interpretations of the First Amendment. Durham, N.C., Duke University Press, 1984. 136 p. (Duke Press policy studies)

Whitehead, John W.
The right to picket and the freedom of public discourse. Westchester, Ill., Crossway Books, c1984. 160 p. (Rutherford Institute report, v. 3)

Younger, Irving.
What good is freedom of speech? Commentary, v. 79, Jan. 1985: 45-51.
Attorney argues that "it is the idea of sanctuary, . . . which furnishes at last a defense of freedom of speech. Freedom of speech means that we can say what we want to ourselves and to each other without fear of government intrusion."

Yudof, Mark G.
When government speaks: politics, law, and government expression in America. Berkeley, University of California Press, c1983. 323 p.

## B. FREEDOM OF THE PRESS

Abrams, Floyd. Baron, Murray.
"Is a free press a threat to freedom?": educational conference presented by Allied Educational Foundation, September 18, 1979. Communications and the law, v. 2, winter 1980: 67-85.
This symposium considers the question of "whether the constitutional right to freedom of the press has been so extended as to limit and nullify the freedom of individuals similarly guaranteed by other amendments of the Constitution."

The American press. American heritage, v. 33, Oct.-Nov. 1982: 16-73.
Series of articles traces the development of the newspaper industry in the U.S. and the development of press freedoms.

Anderson, David A.
The origins of the press clause. UCLA law review, v. 30, Feb. 1983: 455-541.
Article traces "the history of the language that became the press clause of the first amendment." Appends (p. 538-541) a chronological listing of textual antecedents to the press clause.

BeVier, Lillian R.
An informed public, an informing press: the search for a constitutional principle. California law review, v. 68, May 1980: 482-517.
Article addresses the question of "whether the first amendment ought to be conceived of as a guarantee that the public be well informed" and concludes "that a right to know cannot be sustained as a matter of constitutional principle."

Can the press tell the truth? Harper's magazine, v. 270, Jan. 1985: 37-42, 46-51.
"Can the American press tell the truth? If not, what does it tell us, and why? To consider these questions, Harper's invited a group of journalists and a First Amendment lawyer to discuss what Americans can fairly expect from their press--and what they cannot."

Cann, Steven.
Drawing a line on freedom of the press: the Burger Court picks up the chalks. Judicature, v. 66, Feb. 1983: 296-303.
Article concludes that "there is a real danger if we accept the media's version of what constitutes freedom of the press. For should the Court ever sanction the view that the media is the legitimate watchdog over government on our behalf, who will watch the watchdog?"

Censorship '86: a special report. Human rights, v. 13, winter 1986: 15-31, 36, 40-50, 54-55.
Contents.--Banned in the U.S.A., by C. Slovinsky.--Why broadcasting's fairness doctrine is under attack, by D. Weinberg.--Censorship: an equal-opportunity employer, by J. Krug.--The First Amendment under seige, by J. Abrams.

Cox, Archibald.
Freedom of the press. University of Illinois law review, v. 1983, no. 1, 1983: 3-21.
Article analyzes three aspects of freedom of the press: access to information, national security, and fair trial and free press.

Denniston, Lyle.
Allies waver on access. Quill, v. 70, Sept. 1982: 16-19.
Examines Supreme Court actions on a variety of press issues.

---
Petition denied. Quill, v. 71, Oct. 1983: 30-33.
Argues that "the Supreme Court is backing away from important press-law issues . . . . At the very time that legal controversy involving the media has reached its greatest intensity, the Court has become reluctant to let itself be drawn back into the thick of the fight."

Dworkin, Ronald.
Is the press losing the First Amendment? New York review of books, v. 26, Dec. 4, 1980: 49-57.
Warns that the press and many First Amendment lawyers fear that the 1980 Supreme Court decision, U.S. v. Snepp, is "only the latest and most dramatic example of the decline of free speech in the United States." Argues for the right to listen, claiming that "no person should be able to waive his First Amendment rights without specific congressional authorization," for a constitutional right to free speech is a principle in which the whole community has a stake, not a piece of personal property.

Edwards, George.
The President, the media and the First Amendment. Presidential studies quarterly, v. 12, winter 1982: 42-47.
Federal judge posits that the Founding Fathers, because of their experiences of royal tyranny in Great Britain and in the colonies, carefully limited Presidential power by designing the separation of powers with its checks and balances, and by adopting freedom of speech and press.

Freedman, David F.
Press passes and trespasses: newsgathering on private property. Columbia law review, v. 84, June 1984: 1298-1342.
"The Note advocates the recognition of reporters' first amendment interest in gathering news on private property."

Friendly, Fred W.
Minnesota rag: the dramatic story of the landmark Supreme Court case that gave new meaning to freedom of the press. New York, Random House, c1981. 243 p.
A history of the 1931 decision Near v. Minnesota.

Gergen, David R.
The message to the media. Public opinion, v. 7, Apr.-May 1984: 5-8.
Reviews 1983 survey data on attitudes towards the press. "The American people have come to depend heavily upon the press, and they welcome its mission, but they are also sending some warning signals."

Gerstein, Carol Susan.
Reporters Committee for Freedom of the Press. Columbia, School of Journalism, University of Missouri, 1980. 8 p. (Freedom of Information Center Report no. 431)
"The Reporters Committee for Freedom of the Press, in its short 10 year

history, has become one of the most active groups advocating press freedom. In turn, the committee and its leader Jack Landau have acquired a controversial image."

Holmes, Deborah.
Governing the press: media freedom in the U.S. and Great Britain. Boulder, Colo., Westview Press, 1986. 107 p. (Westview special study)

Honenberg, John.
Free press/free people: the best cause. New York, Free Press, 1973. 528 p.
Reprint of the 1971 edition published by Columbia University Press, with a new epilogue.

Immerwahr, John. Doble, John.
Public attitudes toward freedom of the press. Public opinion quarterly, v. 46, summer 1982: 177-194.
"This article presents findings on a study of public attitudes toward the rights and responsibilities of the media. Public thinking about freedom of the press appears to be dominated by a principle of fairness . . . . Although the public rejects many proposals for censorship laws, it does support 'fairness-enhancing' laws. The authors hypothesize that the public's perspective on freedom of the press grows out of its role as listeners rather than as speakers."

Irvine, Reed.
Press freedom doesn't guarantee a free society. Human events, v. 37, Mar. 5, 1977: 12-13, 20.
Argues that irresponsible press freedom may lead to the overthrow of all other freedoms, charges the U.S. press with contributing to the loss of American will, and asserts that the press must be kept from being manipulated into serving Communist and totalitarian propaganda.

Jacobs, Tamara.
The chilling effect in press cases: judicial thumb on the scales. Harvard civil rights-civil liberties law review, v. 15, winter 1980: 685-712.
Comment examines the Supreme Court's balancing tests in cases involving the editing and news-gathering processes, when a "chilling effect" on the press has been claimed.

Kampelman, Max M.
The power of the press: a problem for our democracy. Policy review, no. 6, fall 1978: 7-39.
Analyzes the rights and responsibilities of the news media, suggests that the press should be accountable for abuses of its power, and recommends reforms, which include an effective anti-trust program to ensure genuine competition without infringing editorial freedom, a professional code of ethics similar to that adhered to by the American Bar Association, an independent press council, and independent internal ombudsmen.

Levy, Leonard W.
Emergence of a free press. New York, Oxford University Press, 1985. 383 p.
Revised edition of Legacy of Suppression (1960).

---

On the origins of the free press clause. UCLA law review, v. 32, Dec. 1984: 177-218.

"What the first amendment said is far more important than what its Framers meant. It is enough that they gave constitutional recognition to the principle of freedom of speech and press in unqualified and undefined terms."

Lofton, John.
The press as guardian of the First Amendment. Columbia, University of South Carolina Press, c1980. 358 p.

McKenzie, Richard.
The high cost of free speech. National review, v. 35, Sept. 2, 1983: 1064-1068.
"For years the press has exalted freedom of the press while promoting an ever-darker view of the free market. But are the two kinds of freedom so easily separable? . . . A free exchange of ideas is vital to the good society, all right, but for most of us, ideas are embodied in the goods we exchange. If coercion is bad for newspapers, it's bad for General Motors, and vice versa."

McLean, Deckle.
Press and privacy rights could be compatible. Communications and the law, v. 8, Apr. 1986: 13-25.
Article contends that "courts and the mass media might be more eager to protect privacies from invasion if the United States Supreme Court had interpreted press freedom during this century along lines suggested by Alexander Meiklejohn."

Meister, Robert.
Journalistic silence and governmental speech: can institutions have rights? Harvard civil rights-civil liberties law review, v. 16, fall 1981: 319-376.
Article attempts to develop a "systematic account of the special difficulty that the institutional relationship between the government and the media poses for the theory of free speech."

Milton, John.
Areopagitica. With a commentary by Sir Richard C. Jebb and with supplementary material. Philadelphia, R. West, 1978. 130 p.
Reprint of the 1918 edition published by University Press, Cambridge.

Nadel, Mark S.
A unified theory of the First Amendment: divorcing the medium from the message. Fordham urban law journal, v. 11, no. 2, 1982: 163-224.
Article concludes that "the owner's rights to include and exclude messages are solely economic property rights. These permit them to select which messages will gain access to their media. If, however, their economic power becomes great enough to enable them to censor messages and/or the advantages of permitting them to exercise discretion is minimal, then the government may regulate access and even impose common carrier obligations upon them."

The News media. Wilson quarterly, v. 6, special issue 1982: 48-97.
"Lawrence Lichty concludes that TV is probably not most Americans' chief source of news; Leo Bogart describes the newspaper's changing character; James Boylan analyzes journalists' self-perceptions in the wake of Vietnam and Watergate; and A. E. Dick Howard examines the health of the First Amendment."

Newspaper credibility: building reader trust; a national study commissioned by The American Society of Newspaper Editors conducted by MORI Research, inc. Washington, The Society, 1985. 71 p.
"Three-fourths of all adults have some problem with the credibility of the media, and they question newspapers just as much as they question television. Results from the national survey indicate that one-fifth of all adults deeply distrust their news media."

Parkinson, Jerry R.
Minneapolis Star & Tribune Co. v. Minnesota Commissioner of Revenue: differential taxation of the press violates the First Amendment. Iowa law review, v. 69, May 1984: 1103-1126.
Comment concludes that "the Court in Minneapolis Star has indicated in its extensive dicta that 'nondiscriminatory' sales taxes pose no constitutional problems. In the process, it has given revenue-hungry states the green light to tax newspapers in any manner 'generally applicable' to other businesses."

The People & the press: a Times Mirror investigation of public attitudes toward the news media, conducted by the Gallup Organization. Los Angeles, Times Mirror Company, 1986. 80 p.
"A year-long investigation, sponsored by Times Mirror, indicates that press supporters in America outnumber critics two to one. It also shows that supporters and critics alike think the press is not free enough from outside influences in the way it reports the news."

The Press, free and responsible? Edited by Hoyt H. Pruvis. [Austin, Tex.] Lyndon B. Johnson School of Public Affairs, Lyndon Baines Johnson Library, 1982. 103 p. (Symposia series)
Papers presented at a symposium cosponsored by the Lyndon Baines Johnson Library and the University of Texas at Austin on April 3, 1981.

Privacy, government, and the media. Center magazine, v. 15, Sept.-Oct. 1982: 30-63; Nov.-Dec.: 40-62.
Contents.--The right to be let alone, by A. Miller.--'Documentary' incrimination, by J. Shellow.--Tort invasions of privacy, by M. Nimmer.--Licit and illicit intrustions, by A. Pickerell.--The abuses of police records, by J. Gutman.--The journalists' rights, by J. Epstein.--When is a thing newsworthy? by D. Zachery.--The information bureaucracy, by D. Pember.

The Publishing process: who decides and how? Newsletter on intellectual freedom, v. 32, Sept. 1983: 133, 156-167.
Edited version of "a panel of six leading publishers and editors from varied fields of the publishing enterprise" at the American Library Association's 1983 conference.

Responsibility & freedom in the press: are they in conflict? Edited by Keith S. Collins. Washington, Citizen's Choice, 1985. 119 p.
Contents.--The public's complaints.--The media and government.--The media and business.--Responsibility and freedom.

Rutland, Robert A.
Freedom of the press and the First Amendment. Virginia cavalcade, v. 32, winter 1983: 134-143.
"The Bill of Rights: a lively heritage. Second in a series."

"The concept of freedom of the press, unique to Western civilization, first took root in England and was transplanted to the North American seaboard colonies early in the eighteenth century . . . . The abstract theory became part of the Constitution of the United States in 1791. Considering mankind's aversion to the alteration of fundamental ideas, this rapid commitment to a free press as a bedrock of democratic societies is almost without precedent."

Sadat-Keeling, Leila.
Constitutional law--Supreme Court finds First Amendment a barrier to taxation of the press. Tulane law review, v. 58, Mar. 1984: 1073-1089.
Comment contends that "the Court in Minneapolis Star & Tribune announced its intention to analyze anew the first amendment problems posed by the Minnesota use tax. In arriving at its decision, and in formulating its new approach, the Court proceeded in a somewhat puzzling fashion.

Schneir, Walter. Schneir, Miriam.
The Right's attack on the press. Nation, v. 240, Mar. 30, 1985: 361-367.
"In their quest for political power, the energetic and ambitious leaders of the New Right (many of whom now call themselves 'conservative populists') regard the media as a formidable barrier. The problem, as they see it, is that the media is controlled by liberals.

Sherer, Michael D.
Photojournalism and the infliction of emotional distress. Communications and the law, v. 8, Apr. 1986: 27-37.
"Persons seeking redress for damages done to their emotional well-being often turn to the courts, thus setting up a classic confrontation: the right of an individual to be free from emotional distress versus the photojournalist's right to communicate newsworthy information. This article is an examination of reported state and federal court decisions.

Spitzer, Matthew L.
Controlling the content of print and broadcast. Southern California law review, v. 58, Sept. 1985: 1349-1405.
"A federal legislator can use this Article's conclusions to help guide future voting behavior. The legislator should not, on the basis of economic justifications, vote for any bill that would more strictly control the content of either print or broadcast."

Symposium: Near v. Minnesota, 50th anniversary. Minnesota law review, v. 66, Nov. 1981: 1-208.
Partial contents.--Toward a theory of prior restraint: the central linkage, by V. Blasi.--Near v. Minnesota in the context of historical developments, by P. Murphy.--National security: the ultimate threat to the First Amendment, by E. Knoll.--Courts and censorship, by H. Linde.

Topping, Seymour.
First Amendment and the press. Federal rules decisions, v. 100, Feb. 1984: 86-92.
"An address delivered to the Judicial Conference of the United States Court of Appeals for the Tenth Circuit, Sun Valley, Idaho, July 7, 8, 1983" by the managing editor of the New York Times.

VanAlstyne, William W.
The First Amendment and the free press: a comment on some new trends and some old theories. Hofstra law review, v. 9, fall 1980: 1-37.

Article sees a general retrenchment in the Supreme Court's "overall conservative judicial rendering of the first amendment," with the press not singled out for either harsher treatment or favoritism. The First Amendment is credited with being the central and ultimate protection for a free press. The author cautions that to protect third party interests, the "beguiling" proposal to give special treatment to the press "as agent-of-the-public-right-to-know" should be closely examined.

What's news: the media in American society. Edited by Elie Abel. San Francisco, Institute for Contemporary Studies, 1981. 296 p.

Partial contents.--Mass media: the economic setting, by J. Rosse.--The First Amendment and the press, by B. Schmidt, Jr.--The new technologies: promise of abundant channels at lower cost, by I. DeSolaPool.--News as entertainment: the search for dramatic unity, by W. Henry, III.--A statesman is a dead politician: candidate images on network news, by M. Robinson.--Holding the media accountable, by J. Hulteng.

White, Anthony G.

Privacy/confidentiality: X; the press and privacy: a selected bibliography. Monticello, Ill., Vance Bibliographies, 1983. 7 p. (Public administration series: bibliography P-1134)

## C. BROADCASTING

Carter, T. Baron. Franklyn, Marc A. Wright, Jay B.
The First Amendment and the fifth estate: regulation of electronic mass media. Mineola, N.Y., Foundation Press, 1986. 635 p.

Corn, Robert L.
Broadcasters in bondage. Reason, v. 17, Sept. 1985: 31-34.
"Free speech is a fundamental right? Not when it comes to TV and radio broadcasters, it isn't--and an odd coalition of liberals and conservatives wants to keep it that way."

Cullen, Maurice R., Jr.
Mass media & the First Amendment: an introduction to the issues, problems, and practices. Dubuque, Iowa, W.C. Brown Co., c1981. 452 p.

Cunard, Jeffrey P.
Freeing public broadcasting from unconstitutional restraints. Yale law journal, v. 89, Mar. 1980: 719-747.
Comment suggests "adoption of a constitutionally acceptable alternative to the present structure [of the Corporation for Public Broadcasting] that severs the state action nexus by institutional and financial reform of the mode of appointment to, and funding of, the public broadcasting system."

The Fairness doctrine and claims of systematic imbalance in television news broadcasting: American Security Council Education Foundation v. FCC. Harvard law review, v. 93, Mar. 1980: 1028-1038.
"In 1977 the Federal Communications Commission (FCC) addressed a fairness complaint . . . which alleged that a major television network's [CBS] news broadcasting had for several years been one-sided and 'dovish' in the presentation of matters relating to 'national security.' In American Security Council Education Foundation v. FCC, the Court of Appeals for the District of Columbia Circuit, sitting en banc, affirmed the FCC's dismissal of the complaint on the ground that the issue of 'national security' was insufficiently specific to form the basis of a fairness claim."

Fowler, Mark S. Brenner, Daniel L.
A marketplace approach to broadcast regulation. Texas law review, v. 60, Feb. 1982: 207-257.
FCC chairman and his legal assistant argue "that the time is long overdue for a national communications policy that will account for market forces in radio and television and accommodate the first amendment rights of those who operate commercial stations."

Grabow, John C.
The Public Broadcasting Act: the licensee editorializing ban and the First Amendment. University of Michigan journal of law reform, v. 13, spring 1980: 541-569.
"Article contends that the public is deprived of an important source of information on public affairs issues as a result of the section 399(a) prohibition on editorializing."

Jones, Christopher William.
FCC regulation of broadcast news: First Amendment perils of conflicting standards of review. Fordham law review, v. 48, May 1980: 1226-1250.
"In deference to the solicitude with which Congress, the federal courts, and the FCC have generally regarded broadcast journalists' editorial judgment, it is submitted that all regulation of broadcast news should be governed by the FCC's extrinsic evidence standard rather than by the lesser good faith and reasonableness standard now used to effectuate the fairness doctrine."

Monroe, Bill. Cox, Kenneth.
Broadcasting and the First Amendment. Cato policy report, v. 6, May-June 1984: 1, 3-6.
Remarks By Bill Monroe, executive producer and panelist on NBC's Meet the Press and comments by Kenneth Cox, senior vice president of MCI Communications.

Powe, L. A., Jr.
American voodoo: if television doesn't show it, maybe it won't exist. Texas law review, v. 59, May 1981: 879-918.
Article addresses "the ability of the Federal Communications Commission (FCC) to take certain types of actions in order to coerce broadcasters to change their entertainment programming."

Silber, Jerome S.
Broadcast regulation and the First Amendment. Lexington, Ky., Association for Education in Journalism 1980. 28 p. (Journalism monographs (Lexington), no. 70)
"One inescapable conclusion from looking at the history of broadcast regulation, advocated by a number of writers cited here, seems to be that the time is ripe for a new look at the constitutional implications of any 'chilling effect' of the Fairness Doctrine."

U.S. Congress. Senate. Committee on Commerce, Science, and Transportation.
Freedom of expression. Hearings, 97th Congress, 2nd session. Sept. 28-Nov. 19, 1982. Washington, G.P.O., 1983. 157 p.
"Serial no. 97-139"
Examines the First Amendment rights of electronic media as a guide to formulating a constitutional amendment to guarantee those rights.

---
Freedom of Expression Act of 1983. Hearings, 98th Congress, 2nd session. Jan. 30, Feb. 1 and 8, 1984. Washington, G.P.O., 1984. 243 p. (Hearings, 98th Congress, 2nd session, S. Hrg. 98-681)
"Serial no. 98-62"

---
Print and electronic media: the case for First Amendment parity; printed at the direction of Hon. Bob Packwood, Chairman, for the use of the Committee on Commerce, Science, and Transportation, United States Senate. Washington, G.P.O., 1983. 115 p. (Print, Senate, 98th Congress, 1st session, committee print S. Prt. 98-50)

Warner, Greg.
Who decides what is on the tube? Christianity today, v. 27, Apr. 8, 1983: 24-26.
Presents a "Christian" opinion on the FCC's request that Congress drop the Fairness Doctrine and the equal time rules from the Communications Act.

Wiley, Richard E. Neustadt, Richard M.
U.S. communications policy in the new decade. Journal of communication, v. 32, spring 1982: 22-32
Looks at the impact of deregulation on traditional communications law. Examines how the FCC's new "unregulation" policy will affect such areas as cable TV, media ownership, equal time rule and the fairness doctrine.

## D. LIBEL AND SLANDER

Abrams, Floyd.
Why we should change the libel law. New York times magazine, Sept. 29, 1985: 34-35, 87, 90, 92-93.
"As it works today, the author argues, the law achieves the worst of two worlds. It does little to protect reputations and much to deter free speech."

Benenson, Robert.
High cost of libel. Washington, Congressional Quarterly 1981. 771-788 p. (Editorial research reports, 1981, v. 2, no. 15)
Contents.--Era of 'mega-judgments'.--Evolution of libel law.--Outlook for libel issue.

Borrus, Bruce J.
Defamation and the First Amendment: protecting speech on public issues. Washington law review, v. 56, Dec. 1980: 75-97.
Comment asserts that speech on public issues, "being necessary for a self-governing democracy," be provided absolute First Amendment protection and not balanced against competing social values.

Brill, Steven.
What if it wasn't the Enquirer? American lawyer, v. 3, May 1981: 5-6, 8.
Despite the popularity of the successful libel suits of Johnny Carson against the National Insider and of Carol Burnett against the National Enquirer, the author argues that "as a matter of law and policy, even these libel victories are dangerous." He favors a press free from fear of being sued for libel.

Campbell, Ray Worthy.
The developing privilege of neutral reportage. Virginia law review, v. 69, June 1983: 853-874.
Comment discusses the constitutional privilege which since 1977 "shields from liability those who republish certain known libels of public figures, wherever those charges were made."

Cendali, Dale M.
Of things to come--the actual impact of Herbert v. Lando and a proposed national correction statute. Harvard journal on legislation, v. 22, summer 1985: 441-502.
"In this Note, Ms. Cendali argues that currently proposed solutions to the problems of libel litigation are inadequate to combat successfully the concerns of intrusiveness and costliness in modern libel law. She instead proposes a national 'Correction Statute', which encourages settlement,discourages costly and intrusive litigation, and seeks to promote the ascertainment of truth."

Christie, George C.
Underlying contradictions in the Supreme Court's classification of defamation. Duke law journal, v. 1981, Nov. 1981: 811-821.

Article predicts that the Supreme Court will eventually opt for a universal application of the Gertz v. Robert Welch, Inc. negligence standard in defamation actions. The author prefers applying the New York Times Co. v. Sullivan standard, which "provides maximum protection for freedom of discussion and preserves the plaintiff's right to redress when the defendant's conduct is particularly reprehensible."

Collins, Erik L. Peterson, Charles W. Wright, Jay B.
Problems in libel litigation. Communications and the law, v. 7, Oct. 1985: 41-57.
"In this article, the authors will first review the problems involved with determining a public controversy [as defined in Supreme Court decisions] and then suggest a set of requirements necessary for finding a public controversy that reflects the current direction of the Supreme Court. Such an approach arguably is the most sensible until the Supreme Court offers clearer guidelines on exactly what it means by the term."

Corbelli, James.
Fame and notoriety in defamation litigation. Hastings law journal, v. 34, Mar. 1983: 809-838.
"Comment addresses the need for a more defined standard governing the role of fame or notoriety in defamation cases, . . . concluding that a broad all-purpose public figure category is not necessary to protect first amendment interests."

Dato, Robert M.
The effect of passage of time on the status of inactive public figures. Federal communications law journal, v. 35, summer 1983: 235-261.
"The concept of 'once a public figure, always a public figure' should be recognized as part of the media's constitutional privilege."

Defamation and the First Amendment: new perspectives. William and Mary law review, v. 25, no. 5: whole issue (226 p.)
Partial contents.--Reputation, compensation, and proof, by D. Anderson.--First Amendment limitations on recovery from the press--an extended comment on "the Anderson solution", by W. VanAlstyne.--The plaintiff's burden in defamation: awareness and falsity, by M. Franklin and D. Bussell.--Public figures, by F. Schauer.

Defamation by fiction. Maryland law review, v. 42, no. 2, 1983: 387-427.
"Comment describes how a reader's perception that a work and its characters are fictitious arises and what effect this understanding has upon the reader's reasonable belief whether a writing defames the plaintiff."

Defining a public controversy in the constitutional law of defamation. Virginia law review, v. 69, June 1983: 931-966.
Comment urges the Supreme Court to define the substance of the public controversy requirement to indicate if a content-based inquiry is appropriate and proposes an approach consistent with the political speech theory of the First Amendment.

DeGrand, Luke.
Challenging the exclusion of libel and slander from survival statutes. University of Illinois law review, v. 1984, no. 2, 1984: 423-444.

"This note proposes that the exclusion of libel and slander from survival statutes works a harsh and unjust result on victims of defamation. The note argues that the conceivable justifications for the exclusion either were never persuasive or no longer relevant."

Dickerson, Donna L.
Retraction's role under the actual malice rule. Communications and the law, v. 6, Aug. 1984: 39-51.
"This article examines the role retraction plays today in determining the existence of actual malice and discusses whether a retraction is a valid mitigating defense under current libel law."

Fetzer, Patricia Nassif.
The corporate defamation plaintiff as First Amendment "public figure": nailing the jellyfish. Iowa law review, v. 68, Oct. 1982: 35-86.
Article examines "the differences between corporations and other defamation plaintiffs and suggest[s] how these differences should affect the application of constitutional defamation privilege."

First Amendment and libel: the experts look at print, broadcast & cable. Co-Chairmen, R. John Cooper, Bruce W. Sanford. New York, Law & Business, Harcourt Brace Jovanovich, c1983. 469 p.

Flocke, Elizabeth Lynne.
Opinion: controlled or protected? Columbia, School of Journalism, University of Missouri, 1985. 6 p. (Freedom of Information Center report no. 510)
"Without a definitive decision from the U.S. Supreme Court, lower courts continue to grapple with the constitutionality of punishing unverifiable--yet potentially damaging--expressions of opinion."

Florence, Heather Grant.
Libel law 1980: a map of tricky territory. Publishers weekly, v. 217, Mar. 28, 1980: 20-24.
Traces Supreme Court interpretations of libel law from 1964 to the present, focusing on the impact of these decisions on publishers.

Garbus, Martin.
New challenge to press freedom. New York times magazine, Jan. 29, 1984: 34, 38, 40-41, 48-49.
"Protections against the threat of huge libel awards were laid down by the Supreme Court 20 years ago in an opinion by Justice Brennan. They have been eroded under recent decisions pushed by Justice Rehnquist."

---
The Sharon verdict: wrong case, wrong place, wrong result. Nation, v. 240, Feb. 16, 1985: 161, 176, 178, 179.
Contends that the verdict in Ariel Sharon v. Time, Inc. "proves that public officials who claim they have been libeled by a critical story should not be permitted to sue.

Green, Anthony.
Protecting confidential sources in libel litigation. Communications and the law, v. 6, June 1984: 39-51.
"This article will seek to explore the question of what a reporter, his employer, and their counsel can do to protect the confidentiality of a source in the face of a libel action brought against them."

Gruhl, John.
Patterns of compliance with U.S. Supreme Court rulings: the case of libel in Federal courts of appeals and State supreme courts. Publius, v. 12, summer 1982: 109-126.
Concludes from examination of decisions rendered from 1964 to 1974 that "Federal courts of appeals and state supreme courts largely complied with the U.S. Supreme Court's libel rulings . . . . Contrary to expectations, there was no substantial difference between federal courts of appeals and state supreme courts."

Hale, F. Dennis.
The future of strict liability in libel. Communications and the law, v. 5, spring 1983: 23-37.
Article discusses the proof of fault requirement for libel plaintiffs before the U.S. Supreme Court.

Hentoff, Nat.
Burnett and the beast. Inquiry (San Francisco), v. 4, June 15 & 29, 1981: 7-9.
Warns that the press has been too unconcerned about what Carol Burnett's successful libel suit against the National Enquirer will mean for its First Amendment rights.

---
Free speech: the price is going up. Progressive, v. 47, May 1983: 34-37.
Charges that the burdens of legal fees and growing awards of punitive damages in libel suits are leading to de facto abridgement of a free press.

Hulme, James H.
Vindicating reputation: an alternative to damages as a remedy for defamation. American University law review, v. 30, winter 1981: 375-414.
Article "examines existing defamation law and the effect of constitutional privilege on the common law principles. It then analyzes the problems inherent in the damage-oriented approach and compares that approach with other defamation remedies."

Kaminsky, Alan.
Defamation law: once a public figure always a public figure? Hofstra law review, v. 10, spring 1982: 803-830.
Comment analyzes the "issue of whether the passage of time can ever completely extinguish a person's prior public-figure classification."

Kaplan, Seth A.
Fact and opinion after Gertz v. Robert Welch, Inc.: the evolution of a privilege. Rutgers law review, v. 34, fall 1981: 81-127.
Comment outlines "the impact of Supreme Court cases, from New York Times Co. v. Sullivan to Gertz, on the law of defamation in general and the fair comment privilege and the fact/opinion distinction in particular."

Kupferberg, Seth.
Libel fever. Columbia journalism review, v. 20, Sept.-Oct. 1981: 36-40.
Discusses recent libel judgments against some publications, often exceeding a million dollars, and argues that these have a "chilling effect" on the press. Includes a separate description (p. 40) by Michael Massing of countersuits by newspaper defendants to fight back for the rights of the press against allegedly frivolous and harrassing libel suits.

LaRue, Lewis H.
Living with Gertz: a practical look at constitutional libel standards. Virginia law review, v. 67, Mar. 1981: 287-294.
"In a series of libel cases that includes New York Times Co. v. Sullivan and Gertz v. Robert Welch, Inc., the United States Supreme Court has emphasized the importance of the distinction between recklessness and negligence. As a result, the courts now confront a practical problem: the incorporation of the new constitutional standards into state tort law."

Levine, Lee.
Judge and jury in the law of defamation: putting the horse behind the cart. American University law review, v. 35, fall 1985: 3-92.
Article defends "the propriety of a constitutional preference for summary judgment in defamation actions instituted by public persons."

Lewis, Anthony.
Annals of law: the Sullivan case. New Yorker, v. 60, Nov. 5, 1984: 52-56, 61, 64, 69-70, 72-73, 75-79, 82, 84, 86-90, 95.
Reviews the background to the Supreme Court's landmark libel decision in the 1964 case of New York Times Co. v. Sullivan and touches on recent and current suits which point to a "libel-happy state of America" in which "libel actions by high public officials, once virtually unknown in the United States, are multiplying."

The Libel dilemma. Nation, v. 237, Oct. 8, 1983: 299-303.
Contents.--The case for a right of reply, by A. Neier.--Abolish libel--the only answer, by M. Garbus.

Massing, Michael.
The libel chill: how cold is it out there? Columbia journalism review, v. 24, May-June 1985: 31-39, 42-43.
"Libel suits are pushing the focus of investigative reporting away from individuals and toward institutions. To an extent, this has occurred naturally as investigative reporting has matured and editors have chosen to go after patterns of abuse rather than isolated instances. But libel is threatening to take this trend in an unhealthy direction, creating a type of immunity for powerful figures."

Mediaocracy and mistrust: extending New York Times defamation protection to nonmedia defendants. Harvard law review, v. 95, June 1982: 1876-1895.
Comment "argues that in some contexts nonmedia defendants, like their media counterparts, deserve [protection provided by] New York Times [Co. v. Sullivan]."

Miller, Tim.
Wricing the libel bible: the Supreme Court takes on the information age. Information times, fall 1984: 58-61.
"Eight years ago a Vermont stringer gathering judicial bankruptcy data goofed and in so doing propelled the U.S. legal system into the murky waters of the information age."

Nagel, Robert F.
How to stop libel suits and still protect individual reputation. Washington monthly, v. 17, Nov. 1985: 12-16, 18.
"If legal protections are designed and explained with due regard for the public's sense of fairness, the First Amendment and the press can gain the strongest protection available--the protection of popular support."

Nizer, Louis. Kovner, Victor A.
Private lives and the public eye: libel litigation in the nineteen eighties; a forum evening sponsored by the New York County Lawyers' Association, Oct. 6, 1983. Communications and the law, v. 6, Aug. 1984: 53-66.
Two articles examine libel.

Pell, Eve.
Libel as a political weapon. Nation, v. 232, June 6, 1981: 681, 698-700.
Draws attention to an "upsurge of lawsuits filed by individuals and corporations because of alleged damage suffered from the expression of political opinions . . . . The suits appear to provide a way for the rich and powerful (or the well-organized) to retaliate against those who challenge their interests."

Picard, Robert G.
Litigation costs and self-censorship. Columbia, School of Journalism, University of Missouri, 1981. 6 p. (Freedom of Information Center report no. 434)
"Rising litigation costs caused by lawsuits against the media and by media efforts to defend their perceived First Amendment rights are posing a threat to press freedom. In an attempt to stave off the costs of litigation, the media resort to self-censorship."

Plunkett, Jeffrey A.
The constitutional law of defamation: are all speakers protected equally? Ohio State law journal, v. 44, no. 1, 1983: 149-184.
Comment holds that "a unitary standard of first amendment protection will ensure that all first amendment activity is equally protected from potential defamation liability . . . . Under a unitary standard . . . the constitutional defamation privileges protect equally the television anchorman, the opinionated minister, the gregarious bartender, and the concerned citizen writing his congressman."

Profaci, Joseph R.
First Amendment II: freedom of the press. Annual survey of American law, v. 1985: Jan. 1986: 27-47.
Article contends that "defenders of the first amendment and a free press will remember 1984 fondly. The year, marking the twentieth anniversary of the historic New York Times v. Sullivan decision, provided an occasion to contemplate the future of libel law in this country."

Rinzler, Carol E.
Who is that public figure--and why can you say all those terrible things about him? Publishers weekly, v. 223, June 24, 1983: 28-30.
"The identification of public officials and public figures is at best imprecise, and that's only one fuzzy section of the whole murky area of avoiding libel suits."

Schaefer, Walter V.
Defamation and the First Amendment. University of Colorado law review, v. 52, fall 1980: 1-18.
Article examines the Supreme Court treatment of defamation cases.

Schwartz, Tony.
Lessons of the '60 Minutes' case. New York, v. 17, June 20, 1983: 30-34.

Discusses issues raised by the slander suit against CBS' "60 Minutes" and Dan Rather by a California doctor, Carl Galloway. Objects to techniques of television reporting "which are designed to heighten drama and not necessarily to advance stories."

Scott, Terrence.
Jurisdiction over the press: a survey and analysis. Federal communications law journal, v. 32, winter 1980: 19-53.
Article concludes that in libel and defamation cases "it is unfair, and therefore unconstitutional, for a state to assert jurisdiction over a publisher who has no intent to profit from the distribution of publications in the forum state."

Simon, Todd F.
Libel as malpractice: news media ethics and the standard of care. Fordham law review, v. 53, Dec. 1984: 449-490.
"This Article proposes that libel be treated as a malpractice action rather than as a general tort action. As is the case with doctors and lawyers, the issue of a journalist's fault is not within the competence of the lay jury unaided by evidence of journalistic practices. Rather than permitting a jury to substitute its own view of what constitutes reasonable journalistic behavior, the courts should allow journalists to avoid liability by showing that their actions are consistent with generally accepted journalistic practices."

Smirlock, Daniel.
"Clear and convincing" libel: fiction and the law of defamation. Yale law journal, v. 92, Jan. 1983: 520-543.
Comment "examines the present inconsistencies, irrelevancies, uncertainties, and dangers in the law of defamation when applied to works of fiction. It accordingly proposes a refinement of the 'of and concerning' element of libel when applied to such works, permitting plaintiffs to recover only upon a showing that fictional characters refer to them unmistakably, individually, and convincingly."

Smith, David Joseph.
News-source privilege in libel cases: a critical analysis. Washington law review, v. 57, Mar. 1982: 349-371.
Comment "examines the recent cases in which a libel plaintiff was impeded by the use of a qualified privilege from obtaining the identity of news sources behind an allegedly defamatory story . . . . Discusses the historical development of the constitutional news-source privilege and concludes that neither traditional first amendment press clause doctrine nor the United States Supreme Court's decision in Branzburg v. Hayes is authority for such a privilege."

Smolla, Rodney A.
Let the author beware: the rejuvenation of the American law of libel. University of Pennsylvania law review, v. 132, Dec. 1983: 1-94.
Article contends that "a failure to adjust defamation doctrine that is fast becoming outmoded can be expected to have a severe impact on the media. Although appellate courts will likely continue to attempt to police excessive awards, the doctrinal shifts in favor of plaintiffs will certainly result in more affirmances of large judgments.

Smyser, Craig.
Protecting the public debate: a proposed constitutional privilege of accurate republication. Texas law review, v. 58, Mar. 1980: 623-646.

Comment "proposes a privilege of accurate republication to protect the uniquely valuable contribution to the public debate of statements by public officials and figures. While the privilege protects the accurate republication of all statements by these public persons, it would not disturb present constitutional and common law rules governing the liability of the original defamer."

Stam, Heidi.
Defamation in fiction: the case for absolute First Amendment protection. American University law review, v. 29, spring 1980: 571-594
Comment "examines the role of fiction in modern society and demonstrates that its value can be maintained only by granting it absolute first amendment protection from the law of defamation. Support for this position is derived from an evaluation of the different ways in which the first amendment and the law of defamation seek to ascertain the truth."

Toward an economic theory of defamation, liability, and the press. Southern economic journal, v. 50, Oct. 1983: 451-460.
Argues that, for newspaper publishing, "the model presented above indicates that, starting with strict liability, an infinitesimal relaxation of liability at the optimal level of care for defamation of either public or private parties will result in an increase in the amount of space devoted to stories of that type . . . . The highest attainable level of social welfare may be achieved under relaxed liability."

Wade, John W.
The tort liability of investigative reporters. Vanderbilt law review, v. 37, Mar. 1984: 301-347.
"One of the most significant developments in recent years, in both constitutional and tort law, began with the holding in New York Times v. Sullivan that the first amendment places substantial restrictions on the common law tort action for defamation. Although the ramifications of New York Times are still developing, that continuing reform of the law of defamation will result is to be expected."

Wall, Tom.
Accommodation of reputational interests and free press: a call for a strict interpretation of Gertz. Fordham urban law journal, v. 11, no. 2, 1982-1983: 401-425.
Comment "argues that current defamation law accords excessive deference to the press, accepts too quickly the purported 'chilling effect' of libel judgments on the press, and ascribes insufficient significance to individual and state interests in compensation for injury inflicted by libelous press."

Zucchino, David.
Publish and perish: libel and the little publication. Washington journalism review, v. 7, July-Aug. 1985: 28-29, 32-35.
"Small publications face problems that rarely confront metropolitan dailies. Unlike their big-city brethren, they lack the size, money, resources and time to wage protracted libel wars. They are in some ways hostages of their local communities, where social and financial pressures are often more effectively applied than in metropolitan areas."

62-572 O - 86 - 3

## E. PORNOGRAPHY, OBSCENITY, AND SEX AND VIOLENCE IN THE MEDIA

Anti-pornography laws and First Amendment values. Harvard law review, v. 98, Dec. 1984: 460-481.
"Examines the available evidence of pornography's harms and finds that there is sufficient evidence to support a rational legislative determination that at least some kinds of pornography harm women. The Note concludes that, in light of the minimal first amendment protection appropriate for pornography, such a legislative determination is adequate to justify prohibitions on certain pornographic materials."

Benson, Rebecca.
Pornography and the First Amendment: American Booksellers v. Hudnut. Harvard women's law journal, v. 9, spring 1986: 153-172.
"Despite the courts' unsatisfactory analyses, their conclusion that the [Indianapolis anti-pornography] ordinance cannot stand will ultimately be in the best interest of women because there are serious problems with both the ordinance's theoretical grounding and its practical effects."

Berry, Cecelie. Wolin, David.
Regulating rock lyrics: a new wave of censorship? Harvard journal on legislation, v. 23, summer 1986: 595-619.
Comment concludes that "the placement of warning labels on album covers sets a bad precedent for the music industry and society generally. For in reliance on private enforcement of nebulous community standards, the industry has both legitimated and encouraged further censorship efforts."

Bessmer, Sue.
Anti-obscenity: a comparison of the legal and the feminist perspectives. Western political quarterly, v. 34, Mar. 1981: 143-155.
Considers the political problem of "obscenity, which has long plagued the courts as well as moral and political philosophers and which promises to be no less irksome for the Women's Movement." Discusses the controversy over what is obscene from a feminist perspective, and examines "possible theoretical justifications for the supression, by some means, of that which is deemed objectionable."

Blakely, Mary Kay.
Is one woman's sexuality another woman's pornography? Ms., v. 13, Apr. 1985: 37-38, 40, 44, 46-47, 120, 123.
"In cities across the country, a controversial new ordinance has sparked heated debate among feminists, First Amendment scholars, and neighbors."

Bonavoglia, Angela.
America, apple pie, and pornography: do feminists stand a chance? USA today (magazine), v. 109, May 1981: 28-31.
Expresses concern that "what is new about American porn is its pervasiveness and the growing virulence of its character--two factors that have conspired to launch a feminist revolt." Defends the Women Against Pornography against charges that they advocate censorship.

Bryden, David.
Between two constitutions: feminism and pornography. Constitutional commentary, v. 2, winter 1985: 147-180.
Article provides "a reader's guide to the ideology of the Minneapolis pornography ordinance, based on the writings of feminist authors."

Carpenter, Ted Galen.
Porn busters. Reason, v. 17, Oct. 1985: 26-31.
"Radical feminists are turning their backs on the First Amendment in a crusade to clean up America."

Christenson, Reo.
It's time to excise the pornographic cancer. Christianity today, v. 25, Jan. 2, 1981: 20-23.
Offers reasons why pornography may be curbed under the First Amendment and has become a sufficiently serious problem to merit organized action by concerned Christians at the community level.

Cleary, John C.
Telephone pornography: First Amendment constraints on shielding children from dial-a-porn. Harvard journal on legislation, v. 22, summer 1985: 503-550.
"The author proposes that certain content-based regulations of speech may be permissible when a communication mode's potential audience cannot be segregated into adults and children. The author thus concludes that such regulations should be permissible in the dial-a-porn context."

Conrad, Mark.
Censorship in America. Human rights, v. 10, winter 1982: 28-31, 52-55.
"Much of the adjudication involving literary obscenity in the United States has involved pornography or other purely sexual matters. However, that is not the full scope of the meaning of the term. The definition of obscenity has changed with the times."

Daniels, Stephen.
The Supreme Court and obscenity: an exercise in empirical constitutional policy-making. San Diego law review, v. 17, no. 4, 1980: 757-799.
"During this century, constitutional interpretation has been marked by a shift from a formal, deductive approach toward one more empirical and instrumental in character. The shift has been especially pronounced in the area of civil liberties. This essay analyzes that approach as reflected in the Supreme Court's attempt to devise a constitutional policy on obscenity."

Davis, Bruce.
Rock music: parental guidance suggested. Christian century, v. 102, Nov. 13, 1985: 1032-1033.
"We should be profoundly grateful to groups such as the NPTA [National Parent-Teacher Association] and PMRC [Parent's Music Resource Center]. Whether or not the labeling system they have helped bring about will be effective, they have performed a valuable service in raising the consciousness of parents and initiating an important discussion."

Donnelly, Harrison.
Pornography: setting new limits. Washington, Congressional Quarterly, 1986. 351-368 p. (Editorial research reports, v. 1, no. 15, 1986)
Contents.--Agitation for controls.--Evolving legal concepts.--'High-tech' pornography.

Dworkin, Andrea.
Against the male flood: censorship, pornography, and equality. Harvard women's law journal, v. 8, spring 1985: 1-29.
"Equality for women requires material remedies for pornography, whether pornography is central to the inequality of women or only one cause of it. Pornography's antagonism to civil equality, integrity, and self-determination for women is absolute; and it is effective in making that antagonism socially real and socially determining."

Elshtain, Jean Bethke.
The new porn war. New republic, v. 190, June 25, 1984: 15-20.
"Communities must put pornography 'in its place' rather than seeking to eradicate it altogether. Here the language and reality of First Amendment freedom ought to chasten overly zealous efforts to create or demand community consensus."

English, Deirdre.
The politics of porn: can feminists walk the line? Mother Jones, v. 5, Apr. 1980: 20-23, 43-44, 48-50.
Reviews issues raised by the campaign of many women's groups against pornography and its depiction of women, especially when violent treatment is involved. "Many feminists, including myself, are coming to believe that in marshaling its resources against pornography, the women's movement is making a mistake, comparable to the error made by those 19th-century feminists who went to war against alcohol."

Friend, Shelley A.
Sexual exploitation of children and youth. State legislative report, v. 8, Oct. 1983: whole issue (12 p.)
Discusses the 1982 Supreme Court decision, New York v. Ferber, and options for States in combatting child sexual abuse and child pornography.

Gitlin, Todd.
When the Right talks, TV listens. Nation, v. 237, Oct. 15, 1983: 333-340.
Reports on the efforts of Mississippi Methodist minister Don Wildmon's Coalition for Better Television "to clean up TV--and how the networks responded to the challenge."

Glasser, Theodore L. Jassem, Harvey.
Indecent broadcasts and the listener's right of privacy. Journal of broadcasting, v. 24, summer 1980: 285-299.
Considers the 1978 Supreme Court decision of FCC v. Pacifica Foundation, and the public's right "not to hear" objectionable programming. The authors "discuss the larger issue of 'invasion by expression,' an area of First Amendment concern seldom subject to judicial scrutiny."

Gunther, Max.
The debate over sex on TV. TV guide, v. 29, Mar. 28, 1981: 4-6, 8-10.
Examines the growing presence of sexually explicit material on cable and pay television.

Heffner, Richard D.
What G, PG, R and X really mean. TV guide, v. 28, Oct. 4, 1980: 38-40, 42, 44, 46.
In question-and-answer format, the chairman of the Motion Picture Association's Classification and Rating Administration explains the movie rating standards.

Hentoff, Nat.
The disc washers. Progressive, v. 49, Nov. 1985: 29-31.
"Today's would-be censors are members of the Parents Music Resource Center, led by wives of powerful Washington politicians. They want to protect kids from lyrics they find offensive, and they are prepared to trample on the First Amendment in the process.

Hertzberg, Hendrik.
Big boobs. New republic, v. 195, July 14 & 21, 1986: 21-24.
"In the conservative dialectic that defines the Reagan counterrevolution, the report of the Meese commission--known officially as the Attorney General's Commission on Pornography--is designed to be the antithesis of its ancestor, the notorious 1970 report of the federal Commission on Obscenity and Pornograpy."

Hofbauer, Diane L.
"Cableporn" and the First Amendment: perspectives on content regulation of cable television. Federal communications law journal, v. 35, summer 1983: 139-208.
Article examines "attempts in both the public and private sectors to deal with the problem of cable content regulation in a manner which adequately protects the interests of speakers, viewers and cable operators."

Hoffman, Eric.
Feminism, pornography, and law. University of Pennsylvania law review, v. 133, Jan. 1985: 497-534.
"This Comment argues that insofar as the law plays a role in defining and shaping social values, pursuit of feminist antipornography law may well have some value. From a political perspective, however, feminists should probably avoid endorsing state regulation of pornography."

Jacobs, Caryn.
Patterns of violence: a feminist perspective on the regulation of pornography. Harvard women's law journal, v. 7, spring 1984: 5-55.
Article condemns "society's failure to recognize and rectify the dangers of pornography to women. Conspicuously absent from the judicial opinions, the statutes, and the commentary on obscenity is any mention of male exploitation of women through obscenity."

Kaminer, Wendy.
A woman's guide to pornography and the law. Nation, v. 230, June 21, 1980: 754-756.
Attorney warns that First Amendment problems in legal control of pornography are procedural, not definitional, and that to adopt a narrow "clear and present danger" standard to prohibit pornography would only make enforcement more difficult.

Kamp, John.
Obscenity and the Supreme Court: a communication approach to a persistent judicial problem. Communications and the law, v. 2, summer 1980: 1-42.
Article asserts "that the Supreme Court should consider sexually explicit communication to be within the system of liberty, and should, therefore, apply rigorous constitutional principles derived from other fundamental rights cases to 'obscenity' cases."

Lentz, Marguerite Munson.
Comparison evidence in obscenity trials. University of Michigan journal of law reform, v. 15, fall 1981: 45-76.

Article holds that "proof of community standards is critical to protecting the due process and free speech rights of the obscenity defendant, and comparison evidence, as a uniquely effective way of presenting those standards, may be essential to an adequate defense."

Linz, Daniel. Donnerstein, Edward. Penrod, Steven.
The effects of multiple exposures to filmed violence against women. Journal of communication, v. 34, summer 1984: 130-147.
"Men who viewed five movies depicting violence against women came to have fewer negative emotional reactions to the films, to perceive them as significantly less violent, and to consider them significantly less degrading to women."

Loken, Gregory.
The Federal battle against child sexual exploitation: proposals for reform. Harvard women's law journal, v. 9, spring 1986: 105-134.
Article analyzes statutes which can be applied to the problems of juvenile prostitution and pornography and "proposes additional Congressional action in order to strengthen the means of prosecuting those who exploit children, prevent further exploitation, and grant compensation to the victims of abuse."

Lupo, Cynthia M.
Prior restraint of obscenity as a public nuisance. New York law school law review, v. 24, 1981: 1122-1134.
Case note discusses the Supreme Court decision in Vance v. Universal Amusement Co., in which the Court "declared unconstitutional a Texas statute which classified as a public nuisance the prospective use of a building for the exhibition of obscene movies."

Lynn, Barry W.
"Civil rights" ordinances and the Attorney General's Commission: new developments in pornography regulation. Harvard civil rights-civil liberties law review, v. 21, winter 1986: 27-125.
"The Article concludes that neither those who support the 'sex discrimination' ordinances, nor those more traditional pornography opponents who have endorsed the new Commission, [on pornography] have advanced principles acceptable to a society that is truly supportive of free expression and personal privacy."

---
Rushing to censorship: an interim report on the methods of evidence gathering and evaluation by the Attorney General's Commission on Pornography. Washington, American Civil Liberties Union, 1986. 31 p.
"This ACLU document is not primarily a First Amendment argument for pornography's status as protected speech. Instead, this document seeks to demonstrate critical defects in the methods employed by the Commission to collect and evaluate testimonial and other evidence."

MacKinnon, Catharine A.
Pornography, civil rights, and speech. Harvard civil rights-civil liberties law review, v. 20, summer 1985: 1-70.
Article contends that "women will never have that dignity, security, compensation that is the promise of equality so long as the pornography exists as it does now. The situation of women suggests that the urgent issue of our freedom of speech is not primarily the avoidance of state intervention as such, but getting affirmative access to speech for those to whom it has been denied."

McCash, Vicki L.
Limiting filth or limiting freedom? Columbia, School of Journalism, University of Missouri, 1985. 7 p. (Freedom of Information Center report no. 511)
"The War on Pornography is on in communities across the country and the nation's courts continue to search for the line that separates appropriate public policy from encroachment on civil liberties."

Moretti, Daniel S.
Obscenity and pornography: the law under the First Amendment. New York, Oceana Publications, 1984. 147 p. (Legal almanac series, no. 82)

Oliphant, Lincoln.
The substance of the Supreme Court's obscenity test. In Remarks of William L. Armstrong. Congressional record [daily ed.], May 21, 1985: S6701-S6706.
Senate Republican Policy Committee memorandum, dated Feb. 22, 1985, sets forth the 1973 Miller test regarding pornography. Included is an appendix, Major Federal Obscenity Statutes Listed in Numerical Order, by Title and Section of the United States Code (1982).

Pally, Marcia.
Ban sexism, not pornography. Nation, v. 240, June 29, 1985: 794-797.
"Porn is a product of our culture and bears all its ills, but it may not be their source. And so, antiporn activities may make little difference to women's lives. If we want to halt violence against women, we'd do well to look at the political and economic systems that keep women powerless."

Pearson, Richard L.
State regulation of obscene motion pictures: the red light nuisance statute. Alabama law review, v. 31, winter 1980: 274-305.
Comment finds that "although carefully drawn, narrowly construed public nuisance statutes may be a valid and effective weapon against obscenity, traditional red light abatement statutes cannot be characterized as sufficiently sensitive to first amendment freedoms. To judicially apply these traditional statutes to speech without a clear legislative directive endangers first amendment rights."

The Place of pornography. Harper's magazine, v. 269, Nov. 1984: 31-39, 42-45.
"In a supposedly liberated society, what is the place of pornography? Why is it so often grim and violent? And what, if anything, should we do about it? Harper's recently brought together social critics, civil libertarians, feminists, and a pornographer to consider how we might balance the right of free expression against the claims of our public morality."

Powers, Ron.
The new 'holy war' against sex and violence. TV guide, v. 29, Apr. 18, 1981: 6-8, 10, 12.
Examines the campaign of Mississippi minister Don Wildmon's Coalition for Better Television to lead a boycott of sponsors of television programs deemed offensive because of their "violent, sexual, and profane content."

Record of the Association of the Bar of the City of New York. Committee on Communications Law.
Content regulation of cable television: "indecent" cable programming and the First Amendment. Record of the Association of the Bar of the City of New York, v. 41, Jan.-Feb. 1986: 71-107.

Article concludes that "cable television is an exciting and innovative new communiations medium that promises to grow into one of the nation's most important means of communicating information and entertainment. We believe that cable television should--and, under the First Amendment, must--be permitted to fulfill this promise free from governmental restraints on the content of cable programming."

Rubens, William S.
Sex and violence on TV. Journal of advertising research, v. 21, Dec. 1981: 13-20.
NBC's vice-president for research reports results of an NBC/Roper survey designed "to determine the extent to which the adult American public finds specific entertainment programs objectionable because of sex, profanity, and/or violence content."

Sandler, Winifred Ann.
The Minneapolis anti-pornography ordinance: a valid assertion of civil rights? Fordham urban law journal, v. 13, no. 4, 1984: 909-946.
"Examines whether pornography violates women's civil rights and whether the Minneapolis ordinance can withstand first amendment challenge. This Note concludes that pornography neither constitutes a civil rights violation nor falls within the traditional categories of unprotected speech."

Schicht, Jack.
Religious groups v. TV's sex, violence. Columbia, School of Journalism, University of Missouri, 1980. 8 p. (Freedom of Information Center report no. 416)
"Religious organizations--churches and special interest groups--have played an integral role in the national movement to combat sex and violence in television programming."

Schmalz, Kurt L.
Problems in giving obscenity copyright protection: did Jartech and Mitchell Brothers go too far? Vanderbilt law review, v. 36, Mar. 1983: 403-430.
Comment "argues that the strong national policy against obscenity, as manifested in federal antiobscenity statutes, requires courts in some cases to deny copyright protection to obscene works that violate a national obscenity standard, even though that standard may not coincide with a local community standard."

Schwartz, Tony.
The TV pornography boom. New York times magazine, Sept. 13, 1981: 44, 120-122, 127, 129, 131-132, 136.
"With the arrival of video cassettes and cable television, sexually explicit entertainment that once was restricted to movie theaters has found a pipeline into the privacy of homes across America."

'Settlement' reached in rock lyric dispute. Newsletter on intellectual freedom, v. 35, Jan. 1986: 3-4, 23-25.
"The growing movement to label rock'n'roll records with sexually explicit, violent and occult lyrics won a victory November 1 when the president of the Recording Industry Association of America (RIAA) announced that many American record companies would soon begin including warnings on albums containing potentially offensive lyrics." Includes a response by Frank Zappa.

Shelanski, Vivien B.
First Amendment I. Annual survey of American law, v. 1983, no. 3, 1983: 531-567.
"Within the last decade, the Supreme Court has decisively curtailed the protection it once afforded to expression that is related to sex but falls short of the obscene. In a series of cases beginning in the late 1970s, the Court signaled its dissatisfaction with the view that such speech is fully sheltered, and began to adopt a less protective position toward sexually-oriented materials."

Shipman, John M., Jr.
Pressures on TV programs: Coalition for Better Television's case. Columbia, School of Journalism, University of Missouri, 1985. 7 p. (Freedom of Information Center report no. 504)
"The Coalition for Better Television used the economic boycott and the threat of the boycott against the networks in an effort to change programming. In the following report, the author contends that while the tactic might have had some success with advertisers, it was disregarded by viewers and had little effect on ratings."

Stating the claim: on pornography. Cogitations, v. 2, winter 1984: 13-18.
Contents.--Protecting the First Admendment from legislative encroachment: a case against prohibition of pornography, by E. Chemerinsky.--Prohibiting pornography: a moral imperative, by P. McGeady.

Stein, Ben.
Norman Lear vs. the Moral Majority: the war to clean up TV. Saturday review, v. 8, Feb. 1981: 23-27.
Discusses Moral Majority's efforts to clean up television and the efforts by Norman Lear and People for the American Way to blunt any censorship attempts.

Stevens, Pamela J.
Community standards and Federal obscenity prosecutions. Southern California law review, v. 55, Mar. 1982: 693-726.
Comment "proposes that the federal criminal statute forbidding use of the mail to deliver obscenity be found unconstitutional," and that only local community standards be applied to determine whether material is obscene.

Stewart, George N.
Schad v. Borough of Mount Ephraim. Duquesne law review, v. 21, fall 1982: 259-275.
"The United States Supreme Court has held that a zoning ordinance which excludes all forms of live entertainment, including nonobscene nude dancing, from an otherwise broad range of permissible uses violates the first amendment."

Tell, Larry.
Cable TV's sex problem. National law journal, v. 4, Feb. 15, 1982: 1, 28-29.
Morality activists "are touching off a nationwide struggle for moral high ground between the crusaders who hoist their banners against indecency and cablecasters waving back a First Amendment shield."

Thomas, Bill.
The mothers of prevention. Washington dossier, v. 11, Feb. 1986: 20-22, 52-53.

"First they zapped Frank Zappa. Then they straightened out Twisted Sister. Who will they unplug next? Bill Thomas tuned in to the band of Washington wives that's terrorizing the Top 40."

Trachtman, Jeffrey S.
Pornography, padlocks, and prior restraints: the constitutional limits of the nuisance power. New York University law review, v. 58, Dec. 1983: 1478-1529.
"This Note focuses on padlock orders as they are applied to pornographic bookstores and theaters, and concludes that such injunctions fail to pass constitutional scrutiny."

Turchi, Kenneth L.
Municipal zoning restrictions on adult entertainment: Young, its progeny, and Indianapolis' special exceptions ordinance. Indiana law journal, v. 58, no. 3, 1982-1983: 505-529.
"The United States Supreme Court has attempted to articulate standards by which the validity of zoning ordinances regulating adult uses can be measured. Young v. American Mini Theatres, Inc. offers one exposition of the constitutional limits on the regulation of adult uses, but the questions surrounding this issue are far from resolved."

U.S. Attorney General's Commission on Pornography.
Final report. Washington, U.S. Dept. of Justice, for sale by the Supt. of Docs., G.P.O., 1986. 2 v.

U.S. Congress. Senate. Committee on Commerce, Science, and Transportation.
Record labeling. Hearing, 99th Congress, 1st session, on contents of music and the lyrics of records. Sept. 19, 1985. Washington, G.P.O., 1985. 170 p. (Hearing, Senate, 99th Congress, 1st session, S. Hrg. 99-529)

U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Juvenile Justice.
Effect of pornography on women and children. Hearings, 98th Congress, 2nd session on oversight on pornography, magazines of a variety of courses, inquiring into the subject of their impact on child abuse, child molestation, and problems of conduct against women. Washington, G.P.O., 1985. 346 p. (Hearings, Senate, 98th Congress, 2nd session, S. Hrg. 98-1267)
Hearings held in Washington, D.C., Aug. 8-Oct. 30, 1984; Pittsburgh, Pa., Oct. 18, 1984.
"Serial no. J-98-133"

VandenHaag, Ernest.
Pornography and censorship. Policy review, no. 13, summer 1980: 73-81.
Argues that the constitutional protection of freedom of speech has been interpreted too broadly and that pornography could be outlawed. Advocates prohibition of the marketing of pornography because its public sale is perceived as harmful to society.

Warner, Gregory D.
Morals in the marketplace: the TV coalition in context. Christian century, v. 100, Apr. 13, 1983: 342-345.
Examines the boycott of NBC and RCA for allegedly immoral television programming by the Coalition for Better Television, headed by Mississippi minister Don Wildmon. "Should Christians support a boycott as a method of influencing broadcasting? . . . A boycott is a last resort because it closes more doors than it opens."

Weaver, George M.
Handbook on the prosecution of obscenity cases. New York, National Obscenity Law Center, 1985. 123 p.
Intended as a practical guide for prosecutors, this work discusses the development of American obscenity law, reviews the tests of prurient interest, patent offensiveness, serious intent, and pandering, and then outlines the steps of an obscenity trial: pretrial procedures, jury selection, opening statement, evidence, defenses and defense tactics, summation, jury instructions, verdict, sentence, and appeal. Appends examples of a search warrant, direct examination of a prosecution expert witness, cross examination of a defense expert witness, and jury instructions.

Wirth, Michael O. Baldwin, Thomas F. Zenaty, Jayne.
Demand for sex-oriented cable TV in the USA. Telecommunications policy, v. 9, Dec. 1984: 314-320.
"This pooled cross-sectional/time series analysis focuses on individual consumer demand for sex-oriented pay cable programming . . . . The results suggest that adult movies garnered more demand from pay-per-view subscribers than any other type of programme offered, indicating that sex-oriented cable movies has achieved a reasonable degree of community acceptance."

Zigelbaum, Debra M.
Political speech or obscenity? Communications and the law, v. 7, June 1985: 3-14.
Article concludes that "a limitation on obscene broadcasts does nothing to foul either the public's access to essential political information or to insight into the political process."

## F. EXTREMIST AND UNPOPULAR SPEECH

Baron, Stephen M.
Offensive speech and the open society. This world, no. 10, winter 1985: 39-51.
Sees in John Stuart Mill's concept of the "marketplace of ideas" the philosophical underpinning of the constitutional defense of offensive speech. The author focuses on the cases upholding Illinois Nazis' rights to demonstrate in the village of Skokie, suggesting that their views, taking the form of offensive conduct, might legitimately be prohibited.

Berry, David.
The First Amendment and law enforcement infiltration of political groups. Southern California law review, v. 56, Nov. 1982: 207-239.
"Argues that infiltration alone, without any elements of harassment, disruption, or improper dissemination, violates first amendment rights. In addition, [comment] contends that the courts have failed to protect these first amendment rights."

Bollinger, Lee C.
The tolerant society: freedom of speech and extremist speech in America. New York, Oxford University Press, 1986. 295 p.

Coplan, Karl S.
Rethinking selective enforcement in the First Amendment context. Columbia law review, v. 84, Jan. 1984: 144-176.
Comment criticizes "prosecutorial policy . . . applied in such a way as to disproportionately select those critical of the government . . . . Passive enforcement policy such as the one previously used by Selective Service violates the first amendment."

Corbett, Michael.
Political tolerance in America: freedom and equality in public attitudes. New York, Longman, c1982. 231 p.

Delgado, Richard.
Words that wound: a tort action for racial insults, epithets, and name-calling. Harvard civil rights-civil liberties law review, v. 17, spring 1982: 133-181.
Article reviews the harm caused by bigotry and the current doctrines under which those insulted have sued. Although the author considers objections, based on First Amendment concerns, to such suits, he recommends independent torts for racial slurs.

Downs, Donald A.
Skokie revisited: hate group speech and the First Amendment. Notre Dame law review, v. 60, no. 4, 1985: 629-685.
Article reviews the controversy arising in the late 1970s over the efforts of Illinois Nazis to demonstrate in the Chicago suburb of Skokie and then, finding that such activities inflict significant harms inconsistent with First Amendment values and goals, "suggests the

guidelines for a minimal abridgement of speech when there is targeted racial vilification."

Free speech for the Klan. Progressive, v. 47, July 1983: 22-26.
Contents.--Free speech for the Klan is a fraud, not a right, by R. Davis.--If the Klan can be gagged, none of us is safe, by N. Hentoff.--A rejoinder, by R. Davis.

Griffith, Thomas B.
Beyond process: a substantive rationale for the bill of attainder clause. Virginia law review, v. 70, Apr. 1984: 475-506.
Comment "proposes a redefinition of the attainder doctrine, suggesting that its constitutional purpose is best found in shielding political activity protected by the first amendment from retroactive legislative sanctions."

Jones, Thomas David.
Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination and the First Amendment. Howard law journal, v. 23, no. 3, 1980: 428-480.
Article suggests that the United States adopt this Racial Discrimination Convention, but without the nullifying reservation to Article 4, which proscribes racial defamation and dissemination of propaganda promoting racial discrimination. The author holds this is not in conflict with First Amendment guarantees of free speech and press, because these are not absolute.

Kelley, Dean M.
Are tax exemptions subsidies? Christian century, v. 99, June 9-16, 1982: 694-696.
Argues that the effort to deny tax exemption to religious schools practicing racial discrimination, "conduct that is not criminal but is only contrary to public policy or renders no public benefit," is based on the underlying assumption that tax exemption is a public subsidy. The author insists that this assumption is fallacious and can lead to "ominous [consequences] for democracy, for freedom of association, and for religious liberty."

Leader, Sheldon L.
Free speech and the advocacy of illegal action in law and political theory. Columbia law review, v. 82, Apr. 1982: 412-443.
Article recommends "greater freedom of speech advocating illegal action than the law presently allows."

Marcus, Ellyn Tracy.
Group defamation and individual actions: a new look at an old rule. California law review, v. 71, Sept. 1983: 1532-1556.
"Comment proposes abolishing the rule restricting defamation suits by group members. It argues that group members should be permitted to proceed in accordance with the general standards of defamation law."

Martin, David.
Investigating the FBI. Policy review, no. 18, fall 1981: 113-132.
Arguing that the public's perception of the FBI's secret domestic surveillance program (COINTELPRO) was biased by the media and congressional investigators, the author defends counterintelligence activities.

Mayton, William T.
Seditious libel and the lost guarantee of a freedom of expression. Columbia law review, v. 84, Jan. 1984: 91-142.
Article refutes the argument of Leonard Levy in his book Legacy of Suppression that the First Amendment did not eliminate the power to suppress seditious libel but instead absorbed and ratified that power.

Mongeluzzi, Robert J.
Scapegoat picketing: beyond the pale of constitutional protection. Fordham law review, v. 48, Apr. 1980: 794-816.
"Decisions regarding other forms of picketing may conclusively end the use of scapegoat picketing as a form of protest. First, any picketing that violates a valid public policy or law may be enjoined. Second, scapegoat picketing may constitute malicious or coercive conduct and thus be subject to enjoinder pursuant to a tortious injury theory. Finally, a proper balancing of all competing values may result in a finding that society is benefited when scapegoat picketing is enjoined."

Neier, Aryeh.
Expurgating the First Amendment. Nation, v. 230, June 21, 1980: 727, 751-754.
Objects to the attempts of "victims of oppression" to censor their perceived oppressors, for example, feminists and pornography, or gay activists and movies with unflattering portrayal of homosexuals.

Redish, Martin H.
Advocacy of unlawful conduct and the First Amendment: in defense of clear and present danger. California law review, v. 70, Sept. 1982: 1159-1200.
Article concludes "that while the clear and present danger test is unfortunately subject to potential abuse in its application, no other suggested means of resolving the conflict inherent in regulating unlawful advocacy does a better job."

## G. THE JUDICIAL SYSTEM AND THE COURTS

Apfel, Dov.
Gag orders, exclusionary orders, and protective orders: expanding the use of preventive remedies to safeguard a criminal defendant's right to a fair trial. American University law review, v. 29, spring 1980: 439-484.
Article "provides a historical background of the problem of prejudicial publicity and includes a brief review of the traditional curative devices that have been employed to provide defendants with some relief against the effects of media reporting."

Association of the Bar of the City of New York. Committee on Civil Rights.
The closure of criminal pretrial and trial proceedings. Record of the Association of the Bar of the City of New York, v. 35, Dec. 1980: 543-569.
This committee report addresses the issues raised "in connection with closing proceedings in criminal cases." It reviews a number of cases on this subject.

Atwater, Tony.
Newsroom searches: is 'probable cause' still in effect despite new law? Journalism quarterly, v. 60, spring 1983: 4-9.
"While Privacy Protection Act of 1980 appears to reverse Stanford Daily decision, loopholes may permit some searches."

BeVier, Lillian R.
Like mackerel in the moonlight: some reflections on Richmond Newspapers. Hofstra law review, v. 10, winter 1982: 311-340.
"In Richmond Newspapers, Inc. v. Virginia, the Supreme Court of the United States held that the right of the public and the press to attend criminal trials is guaranteed under the first and fourteenth amendments."

Bolbach, Cynthia J.
Access to information: affirming the press's right. Christian century, v. 97, Sept. 24, 1980: 879-883.
"If the 'Richmond' decision does represent an end to acrimony between the Supreme Court and the press and a beginning for a new interpretation of the First Amendment, then it will truly constitute a 'landmark' ruling."

Clay, Nolan.
Naming the rape victim. Columbia, School of Journalism, University of Missouri, 1983. 8 p. (Freedom of Information Center report no. 475)
Since the 1975 Supreme Court decision Cox Broadcasting v. Cohn, which "struck down prohibitions against identifying rape victims from public records, the media increasingly have reconsidered their policies against naming victims in news accounts."

Cohen, Anne Elizabeth.
Access to pretrial documents under the First Amendment. Columbia law review, v. 84, Nov. 1984: 1813-1851.

Comment "examines the asserted of access to pretrial documents. It considers the Supreme Court decisions on courtroom access, discussing the doctrinal split within the Court regarding the basis of the right and briefly reviewing the kinds of analysis employed by lower courts faced with the issue of document access."

The Common law right to inspect and copy judicial records: in camera or on camera. Georgia law review, v. 16, spring 1982 659-693.
"Analyzes the controversial judicial issues: (1) what is the proper balance between the free-press interest in the right of access and the defendant's right to a fair trial; (2) what is the strength of the presumption in favor of public access to court records; (3) what type and degree of discretion do trial courts exercise in granting or denying access in a particular case; and (4) is the right to inspect and copy judicial records a constitutional rather than a common law right?"

Costa, Joseph.
A photographer dispels a "myth." Columbia, School of Journalism, University of Missouri, 1980. 4 p. (Freedom of Information Center report no. 0021)
"The author argues that negative reports of camera coverage of trials such as the Hauptmann case, which were used as a basis for Canon 35, were unfounded."

Davis, Norman.
Television in our courts: the proven advantages, the unproven dangers. Judicature, v. 64, Aug. 1980: 85-92.
"Critics think that TV will corrupt the judicial process. But Florida, the leader in televised trials, hasn't seen the 'dire consequences' critics predict."

Eckhardt, Willard L., Jr. McKey, Arthur Duncan.
Reporter's privilege: an update. Connecticut law review, v. 12, spring 1980: 435-464.
Article reviews legal cases involving reporter's privilege, examines "the reporter's privilege in various contexts, explore[s] the contours of the somewhat contradictory developments, and offer[s] some predictions as to what lies ahead."

First Amendment rights of newspaper are adequately protected by search warrant requirement. Kansas law review, v. 27, summer 1979: 653-662.
Comment examines the Supreme Court's decision in Zurcher v. Stanford Daily "when it upheld a warrant authorizing the unannounced search of a nonsuspect newspaper office, despite the contention that confidential news sources would be compromised."

Fleming, Beth Hornbuckle.
First Amendment right of access to pretrial proceedings in criminal cases. Emory law journal, v. 32, spring 1983: 620-688.
"This comment focuses on pretrial proceedings in criminal cases and considers some of the questions left unanswered by recent Supreme Court decisions."

Fraser, Douglas H.
The newsperson's privilege in grand jury proceedings: an argument for uniform recognition and application. Journal of criminal law & criminology, v. 75, summer 1984: 413-442.

Comment holds that "because the first amendment privilege extends to criminal trial proceedings, the qualified first amendment privilege should extend to grand jury proceedings as well."

Goodwin, Alfred T.
Press-court relations: can they be improved? Hastings constitutional law quarterly, v. 7, spring 1980: 633-642.
Federal appellate judge argues that the "tension between judges and journalists is inevitable," but states that "courts have benefited from the free press as conscience, as critic, as correspondent. Conversely, journalists have profited greatly from judges' steadfast . . . defense of the right to publish."

Harris, Richard.
The (mis)trials of Myron Farber. Nation, v. 235, Sept. 18, 1982: 232-235.
Examines press issues in the 1978 Jascalevich murder trial in New Jersey. "Farber broke the story in the New York Times and then became a main figure in the trial when the defense demanded that he turn over his notes on the case. He refused, and the courts, from the bottom to the top, went after him."

Hausman, John.
The prison press. Columbia, School of Journalism, University of Missouri, 1982. 8 p. (Freedom of Information Center report no. 461)
"The prison press in the United States operates under varying degrees of First Amendment freedom. Court decisions have been varied and have not resolved whether convicts can produce or receive publications without censorship by prison officials."

Heitzler, Eileen.
Freedom of the press and religion. Annual survey of American law, v. 1981, no. 2, 1981: 217-242.
Article surveys significant 1980 Supreme Court decisions involving access to court proceedings and records and freedom of religion.

Hentoff, Nat.
The battle of 'Richmond'. Inquiry (San Francisco), v. 3, Nov. 10, 1980: 6-8.
Calls the Supreme Court's 1980 Richmond Newspapers decision a "clear victory for open courtrooms" in newspaper coverage of criminal trials.

Jonas, Stephen.
Press access to the juvenile courtroom: juvenile anonymity and the First Amendment. Columbia journal of law and social problems, v. 17, no. 2, 1982: 287-347.
"Explore[s] the opposing values represented by protective confidentiality for juvenile defendants versus open court proceedings . . . . This article suggests that states can achieve a compromise between these positions by permitting press access for 'no-names' reporting, but generally prohibiting the press from publishing identifying material."

Kates, William.
Voluntary becomes mandatory? Columbia, School of Journalism, University of Missouri, 1983. 7 p. (Freedom of Information Center. Report no. 470)
"Voluntary bench-bar-press guidelines, which have evolved over the past 15 years, have represented efforts on the part of judges, attorneys, law enforcement officials, and the press to resolve the fair trial-free [press]

dilemma. A ruling by a judge in the state of Washington has, however, raised the question of just how voluntary these guidelines really are."

Katz, David.
The grim reality of open juvenile delinquency hearings. New York Law School law review, v. 28, no. 1, 1983: 101-122.
"This writing assesses the social and legal implications surrounding the policy of confidentiality. Initially, an explanation of the juvenile court philosophy will be explored, followed by practical and theoretical considerations. An appraisal will then be made of alternative procedures, and, finally, the sufficiency of current legal standards will be evaluated in light of social data."

Keenan, Sally M.
Globe Newspaper Co. v. Superior Court. Hofstra law review, v. 11, summer 1983: 1353-1381.
"In Globe Newspaper Co. v. Superior Court, the United States Supreme Court clarified its previous holding in Richmond Newspaper, Inc. v. Virginia that a first amendment right of access to criminal trials exists for the press and public."

Kintzinger, Andrew R.
Freedom of the press vs. juvenile anonymity: a conflict between constitutional priorities and rehabilitation. Iowa law review, v. 65, July 1980: 1471-1496.
Comment reviews "the Court's balancing of the state's interest in protecting the anonymity of youthful offenders and the media's interest in disclosing the identities of those offenders."

Kirby, David B.
Voluntary press-bar agreements. Columbia, School of Journalism, University of Missouri, 1981. 8 p. (Freedom of Information Center report no. 444)
"In an effort to assure defendants fair trials, while protecting the rights of the public and journalists to observe and report on the criminal justice system, nearly one-half of the states have voluntary press-bar guidelines, which provide guidance on how to meet those needs."

Kizel, Paul.
Richmond Newspapers, Inc. v. Virginia: a new but uncertain "right of access". Syracuse law review, v. 32, fall 1981: 989-1034.
Comment examines the Supreme Court decisions in Richmond Newspaper, Inc. v. Virginia and Gannett Co. v. DePasquale. Resolves "one of the issues left open by the Richmond decision by proposing a test to determine when closure is justified in cases in which the defendants assert that public and press access will endanger their fair trial right. Application of the suggested test should lead to open trials in all but the rarest cases."

Kuriyama, David N.
The "right of information triangle": a first amendment basis for televising judicial proceedings. University of Hawaii law review, v. 4, no. 1, 1982: 85-138.
"Television and the other electronic media have a constitutional right to attend and broadcast court proceedings with their cameras and microphones, a right bolstered by the public's equally strong interest in receiving such broadcasts. These rights are based on the protection afforded by the first amendment to the processes of gathering, disseminating and receiving information--processes which together comprise what may be termed the 'right of information triangle.'"

Marcus, Paul.
The media in the courtroom: attending, reporting, televising criminal cases. Indiana law journal, v. 57, spring 1982: 235-287.
Article examines "the strong first amendment basis for media coverage of criminal trials . . . . [Concludes] that by recognizing this strong first amendment interest, the Supreme Court has treated the media with great deference, perhaps too much deference vis-a-vis certain defendants as well as witnesses and victims."

Nesson, Charles R. Koblenz, Andrew D.
The image of justice: Chandler v. Florida. Harvard civil rights-civil liberties law review, v. 16, fall 1981: 405-413.
Article contends that "the constitutionality of televising criminal trials without the defendant's consent has exquisitely posed for the Supreme Court the dangers, temptations, and embarrassments of focusing on image. The response of the Court is neatly displayed in just two cases, Estes v. Texas in 1965, and Chandler v. Florida in 1981."

Nowaczewski, Jeanne L.
The First Amendment right of access to civil trials after Globe Newspaper Co. v. Superior Court. University of Chicago law review, v. 51, winter 1984: 286-314.
"This comment argues that the constitutional right of access announced in Richmond and Globe extends to civil trials. Civil trials, like criminal trials, have historically been open and concern matters vital to the 'free discussion of governmental affairs.'"

Pember, Don R.
Does pretrial publicity really hurt? Columbia journalism review, v. 23, Sept.-Oct. 1984: 16, 18-20.
"Research bearing on the impact of pretrial publicity does not support the case for closing pretrial hearings. Pretrial publicity may be cruel or embarrassing or in bad taste, but it will not necessarily make it impossible or even difficult to find a jury of twelve citizens capable of deciding the case on the evidence presented in court."

Platte, Mary Kay.
TV in the courtroom: right of access? Communications and the law, v. 3, winter 1981: 11-29.
"Several states have lifted the ban against television in the courtroom. Some states allow limited coverage. Others allow the use of video tape to record proceedings for educational, broadcast, and informational purposes. Video taped confessions and depositions may be used in some appeals courts. Gavel-to-gavel coverage as well as news excerpts of proceedings have been aired by broadcast stations."

"The Press is always crying wolf". Human rights, v. 8, winter 1979: 24-29, 49-50.
Reports on a panel discussion on Search and Seizure of the Media "sponsored by the Section of Individual Rights and Responsibilities, was among the seminars presented at the American Bar Association's" August 1978 convention. The panel focused its discussion on three search and seizure cases: Branzurg v. Hayes, Zurcher v. Stanford Daily, and New York Times Co. v. Jascalevich.

Revised report of the Judicial Conference Committee on the Operation of the Jury System on the "free press--fair trial" issue. Federal rules decisions, v. 87, Dec. 1980: 519-536.

Presents proposed revised guidelines on the issue of fair trial and free press.

Roper, Robert T.
The gag order: asphyxiating the First Amendment. Western political quarterly, v. 34, Sept. 1981: 372-388.
Finds from a sample of 110 juries of almost 1000 potential jurors "that where conventional safeguards (e.g., a meaningful voir dire, a change of venue, etc.) are ineffective at precluding any impact of pre-trial publicity, the prejudicial effects that most people anticipate of low-level pre-trial publicity does not materialize."

Sherer, Michael D.
Obtaining the photojournalist's work product via warranted searches and subpoenas. Communications and the law, v. 6, Aug. 1984: 3-14.
"This article examines how state and federal laws and reported court decisions have both enhanced and inhibited a photojournalist's right to protect negatives, photographs, films and videotapes from governmental requests."

Slasman, Peggy.
Reporter's privilege. Columbia, School of Journalism, University of Missouri, 1982. 8 p. (Freedom of Information Center report no. 464)
"Common law in the U.S. does not provide reporters with the privilege of withholding confidential sources or information before courts of law. Many states now have shield laws for reporters, but courts have generally construed them narrowly, and they are often ineffective."

Solimine, Michael E.
The constitutionality of congressional legislation to overrule Zurcher v. Stanford Daily. Journal of criminal law & criminology, v. 71, summer 1980: 147-162.
"In Zurcher v. Stanford Daily the United States Supreme Court upheld the constitutionality of a state police search of a student newspaper office based on traditional procedures for obtaining a search warrant against third parties not implicated in any crime."

Swift, Joel H.
Restraints on defense publicity in criminal jury cases. Utah law review, v. 1984, no. 1, 1984: 45-114.
Article calls for "absolute protection of the defendant's speech . . . our society can afford the occasional escape of a guilty person in order to protect our fundamental rights. What it cannot afford is to permit the government to silence a citizen whom it may be oppressing."

Television in the courtroom--limited benefits, vital risks? Communications and the law, v. 3, winter 1981: 35-50.
Conference examines issues in televising trials.

U.S. Congress. House. Committee on the Judiciary. Subcommittee on Courts, Civil Liberties, and the Administration of Justice.
Zurcher v. Stanford Daily. Hearings, 96th Congress, 1st session, on H.R. 3486 and H.R. 4181. Apr. 25-June 1, 1979. Washington, G.P.O., 1979. 350 p.
"Serial no. 18"

U.S. Congress. Senate. Committee on the Judiciary.
Privacy Protection Act. Hearings, 96th Congress, 2nd session on S. 115, S. 1790, and S. 1816. Mar. 28, 1980. Washington, G.P.O., 1980. 233 p.
Hearings on legislation to overturn the 1978 Supreme Court decision Zurcher v. Stanford Daily.

Witt, Elder.
Television in the courtroom. Washington, Congressional Quarterly 1981.
19-36 p. (Editorial research reports, 1981, v. 1, no. 2)
Contents.--Trend toward televised trials.--Fair trial and fair treatment.--Search for equitable solutions.

## H. NATIONAL SECURITY AND THE MILITARY

Abrams, Floyd.
The new effort to control information. New York times magazine, Sept. 25, 1983: 22-28, 72-73.
Contends that we are "embarked on a course that seems at odds with the basic tenet of the First Amendment."

---
The Pentagon Papers a decade later. New York times magazine, June 7, 1981: 22-25, 72, 76-78, 82, 92-95.
"The publication of the papers in the Times, and the court battles it touched off, contributed to the bunker atmosphere of the Nixon Administration. It also helped sharpen the protections against censorship and government control of information."

The Accuracy and utility of polygraph testing. Polygraph, v. 13, Mar. 1984: whole issue.
Report of "a working group of senior examiners from the military services . . . setting forth the basis upon which the polygraph is utilized in the Department of Defense."

Adler, Allan.
Dangerous information: a dangerous concept. First principles, v. 7, July 1982: 1-9.
"Over the last five years . . . the Government has taken actions that may comprise an even greater danger to the First Amendment's system of freedom of expression than do Government attempts to limit the dissemination of classified information that has undergone 'unauthorized disclosure.'"

Alexander, Christine.
Preserving high technology secrets: national security controls on university research and teaching. Law and policy in international business, v. 15, no. 1, 1983: 173-240.
Article concludes that "the technology control devices employed by the government . . . may result in serious disruption of the open nature of U.S. scientific inquiry and discourse, and may retard U.S. technological progress. In seeking to deter its challengers, the United States may be imposing restrictions which could prevent it from advancing quickly beyond current technological levels."

Alter, Jonathan.
Slaying the message. Washington monthly, v. 13, Sept. 1981: 43-50.
"Frank Snepp's story has never registered on the national conscience. A year and a half after the Supreme Court's landmark decision in his case, the injustices he and the First Amendment suffered at the hands of the government remain distinctly underappreciated."

Battle lines: report of the Twentieth Century Fund Task Force on the Military and the Media. Background paper by Peter Braestrup. New York, Priority Press Publications, 1985. 178 p.

Benenson, Robert.
Protecting America's secrets. Washington, Congressional Quarterly, 1985. 695-716 p. (Editorial research reports, 1985, vol. 2, no. 11)
Partial contents.--Big year for spy cases.--Security vs. rights.--Penalties and prevention.

Born secret: the H-bomb, the Progressive case and national security. A. De Volpi . . . [et al.]. New York, Pergamon Press, c1981. 305 p. (Pergamon policy studies)

Camp, Alida D.
Enforcement of CIA secrecy agreements: a constitutional analysis. Columbia journal of law and social problems, v. 15, 1980: 455-505.
Article explores "the employer-employee relationship between the CIA and the individuals who sign the agreements as a factor to be considered in the balance between the first amendment and national security."

Carlucci, Frank. Carey, William D.
Scientific exchanges and U.S. national security. Science, v. 25, Jan. 1982: 139-141.
Reprints verbatim an October 9, 1981 letter to Frank Carlucci, Deputy Secretary of the Department of Defense by William D. Carey, executive officer and publisher of Science magazine, which criticizes statements by the Department of Defense concerning scientific exchanges conferences, and unclassified, open scientific literature. Carlucci's reply follows.

Charlson, Michael L.
The constitutionality of expanding prepublication review of government employees' speech. California law review, v. 72, Sept. 1984: 962-1018.
"A system of prepublication review is ill advised because of repugnance to the policies that underlie the first amendment . . . . Congress should clarify the matter itself by passing legislation that expressly forbids prepublication review of government employees' speech."

Cheh, Mary M.
Judicial supervision of executive secrecy: rethinking freedom of expression for government employees and the public right to access to government information. Cornell law review, v. 69, Apr. 1984: 690-734.
Article "argues that courts can and should actively supervise executive decisions regulating how secrets are kept by requiring the President to respect the free speech rights of government employees."

---
The Progressive case and the Atomic Energy Act: waking to the dangers of government information controls. George Washington law review, v. 48, Jan. 1980: 163-210.
"This article outlines the historical and legislative background of the Atomic Energy Act's controls over privately developed information, examines how these controls have been applied, and discusses whether they are justifiable as a matter of law or policy."

Classifying science: a government proposal . . . and a scientist's objection. Aviation week & space technology, v. 116, Feb. 8, 1982: 10-11, 81.
Presents an exchange of ideas by the former Deputy Director of the Central Intelligence Agency, Bobby R. Inman and William D. Carey of AAAS on government review and possible censorship of scientific research for reasons of national security.

Corson, Dale.
What price security? Physics today, v. 36, Feb. 1983: 42-45, 47.
"Evaluates trade-offs between dangers to national security that arise from technology transfers and threats to the openness of scientific communication that are caused by too much secrecy."

Demac, Donna A.
Keeping America uninformed: government secrecy in the 1980s. New York, Pilgrim Press, c1984. 180 p.

Diederich, Bernard.
War news: under new management. Worldview, v. 27, July 1984: 7-8.
"Newsmen have not changed; it is the nature of the wars that has changed. And, like Grenada, most of them are undeclared wars."

Entin, Jonathan L.
United States v. Progressive, Inc.: the Faustian bargain and the First Amendment. Northwestern University law review, v. 75, Oct. 1980: 538-569.
Comment analyzes the United States v. Progressive case, arguing "that the court interpreted the information control sections of the Atomic Energy Act in a restrictive fashion that can only have deleterious effects on both scientific and political debate."

Ferguson, James R.
Scientific freedom, national security, and the First Amendment. Science, v. 221, Aug. 12, 1983: 620-624.
"The Supreme Court may soon be asked to decide an important issues of First Amendment law arising from the government's efforts to restrict the dissemination of 'militarily critical' technological knowledge."

Franck, Thomas M. Eisen, James J.
Balancing national security and free speech. New York University journal of international law and politics, v. 14, winter 1982: 339-369.
"Proposes to answer nunc pro tunc those questions not addressed in Snepp which are of immense importance to the future of democratic governance."

Fricklas, Michael D.
Executive Order 12,356: the First Amendment rights of government grantees. Boston University law review, v. 64, Mar. 1984: 447-519.
Comment concludes that "Executive Order 12,356 imposes a restraint upon the freedom of government grantees to publish their research results. It is one of numerous regulations introduced to protect the national security. When the order restrains information originated by the grantee, the restraint must satisfy the exacting requirements of the first amendment."

Gottschalk, Jack A.
"Consistent with security" . . . a history of American military press censorship. Communications and the law, v. 5, summer 1983: 35-52.

"The media and the public, respectively, must remain determined to inform and be informed. The media and public also must be aware that our national interests may at some future time again require the use of media censorship 'consistent with security' by military and civil authorities."

Grenada. Quill, v. 72, Jan. 1984: 10-16.
Contents.--Planning for future Grenadas, by L. Denniston.--Bringing the war back home, by R. Dorfman.

Hedal, Laura.
Civilian speech on military bases: judicial deference to military authority. Georgetown law journal, v. 71, Apr. 1983: 1253-1278.
"In 1981 a group called Persons for Free Speech at SAC (PFS) requested permission to participate in the open house", at the Offutt Air Force Base to present an alternative to the arms race. The Eighth Circuit Court of Appeals upheld their exclusion. "This comment strongly disputes the holding and the reasoning of the Eighth Circuit . . . . Once OAFB opened the base to some nonmilitary groups, PFS had an equal right of access to the forum and could not be excluded solely on the basis of the viewpoint it presented."

Hentoff, Nat.
The CIA as editor. Inquiry (San Francisco), v. 3, June 9 and 23, 1980: 6-8.
"The Snepp decision--in its impact on writers, publishers, and readers--seriously undermines the fundament of the First Amendment."

Hoffman, Paul.
The crypto-censors. Science digest, v. 90, July 1982: 56-60.
"The National Security Agency (NSA), the code-cracking arm of the government, has proposed that it be allowed to review scholarly papers on cryptography . . . . If a voluntary program of prepublication review and restraint does not work, NSA is expected to ask Congress to grant it the power to censor cryptographic research."

Homonoff, Howard B.
The First Amendment and national security: the constitutionality of press censorship and access denial in military operations. Journal of international law and politics, v. 17, winter 1985: 369-405.
Comment considers the "role of the press in military operations and examine[s] the constitutionality of censorship and access denial in this context."

Hughes, L. R.
Access to military bases and the First Amendment. Columbia, School of Journalism, University of Missouri, 1984. 5 p. (Freedom of Information Center. Report no. 500)
"Access to military bases appears to have changed little despite the freedom of information movement. In two recent cases, U.S. Courts of Appeals rendered quite opposite judgments. The author contends that the possibility for relaxing access restrictions would depend on whether or not the U.S. Supreme Court grants certiorari in the most recent cases."

Hughes, Wayne P.
Guarding the First Amendment--for and from the press. Naval War College review, v. 37, May-June 1984: 28-35.

"The press, which after Grenada were quick to point out a tradition of front line coverage in all prior wars, omitted to mention that on most of those occasions restraints had been imposed by the government."

Kalivoda, Kenneth.
The Export Administration Act's technical data regulations: do they violate the First Amendment? Georgia journal of international & comparative law, v. 11, fall 1981: 563-587.
"Focuses upon the constitutional questions presented by the Export Administration technical data regulations both in general and as specifically applied to scientific meetings. A recent scientific conference held in California, upon which the Department of Commerce imposed the regulations, provides the context."

Kindsvatter, Peter S.
Speaking freely on military bases. Columbia, School of Journalism, University of Missouri, 1980. 8 p. (Missouri. University. Freedom of Information Center. Report no. 424)
"The reinstitution of the draft may once again bring to the forefront the issue of access to military installations. Any further decisions the courts make in this area will be guided by the cases that arose during the Vietnam era. This report reviews those cases."

Koffer, Judith Schenck. Gershman, Bennett L.
The new seditious libel. Cornell law review, v. 69, Apr. 1984: 816-882.
"Article traces the dark roots of seditious libel, its obscure history in this country, and its ominous revival in three recent court opinions": Snepp v. United States, Haig v. Agee, and United States v. The Progressive.

Lewin, Nathan.
The high court hexes free speech. New republic, v. 182, Mar. 22, 1980: 18-21.
Protests 1980 Supreme Court decisions which upheld military regulations requiring prior approval of military personnel petitions and CIA rules requiring prior approval of writing by former employees. Calls the Supreme Court's actions "a dramatic undercutting of one of the most firmly established principles in our legal system: protection from any form of prior governmental restraint in matters of self-expression."

Lewy, Guenter.
Can democracy keep secrets? Policy review, no. 26, fall 1983: 17-29.
Contends that "the United States may be the only nation . . . without any meaningful defense against the publication of classified defense information."

MacKenzie, Angus.
Band aid solution. National reporter, v. 9, winter 1986: 10-13.
"For the past 22 months the press has widely reported that the Reagan administration has put on hold its efforts to expand publication review. To the contrary, the Reagan team has been quietly expanding secrecy measures that soon will affect more than four million federal employees."

Mark, Richard W.
The Patent Secrecy Act of 1952. Columbia journal of law and social problems, v. 15, no. 4, 1980: 359-425.

Comment holds that the Patent Secrecy Act, which allows defense agencies to issue secrecy orders prohibiting publication and disclosure of inventions deemed having national security implications, is unconstitutional on First Amendment grounds.

Martin, Thomas S.
National security and the First Amendment: a change in perspective. American Bar Association journal, v. 68, June 1982: 680-685.
Deputy assistant attorney general in the Carter administration reviews the Progressive, Snepp, Jackalone, and Agee cases, arguing that this litigation reflected the administration's decision "to do everything that lawfully could be done to attempt to maintain the integrity of information that relates to national security. It was not a plot to undermine the First Amendment and it is not a solution to the problem of leaks."

Massing, Michael.
Grenada, we will never know. Index on censorship, v. 13, Apr. 1984: 15-19.
Discusses the exclusion of journalists by the Reagan Administration during the early days of U.S. military operations in Grenada. Concludes that much information "has been lost for good."

Medow, Jonathan C.
The First Amendment and the secrecy state: Snepp v. United States. University of Pennsylvania law review, v. 130, Apr. 1982: 775-844.
"Describes the exact restraints imposed by the secrecy agreements Snepp signed . . . . Examines whether such restraints would be constitutional if applied against private citizens, a term here defined to include all legal persons who have neither worked for the CIA in the past nor signed a secrecy agreement . . . . Considers whether those who have signed these agreements have thereby waived any first amendment rights."

The Military and the media. Claremont, Calif., Keck Center for International Strategic Studies, 1984. 83 p. (Essays on strategy and diplomacy no. 2)
Contents.--The public, the media and foreign policymaking in a free country, by W. Schneider.--The military and the media.--Covering Grenada, by E. Cody.--The military and the media in Central America, by W. Hansen.--The Chairman of the Joint Chiefs of Staff Study on media-military relations, by A. Langguth.--Television and the military, by I. Pappas.--Media and military responses to the Grenada controversy.

National Academy of Sciences (U.S.)
Scientific communication and national security. Washington, National Academy Press, 1982. 188 p.
Partial contents.--Current knowledge about unwanted technology transfer and its military significance.--Universities and scientific communication.--The current control system.--General conclusions: balancing the costs and benefits of control.

Orentlicher, Diane F.
Snepp v. United States: the CIA secrecy agreement and the First Amendment. Columbia law review, v. 81, Apr. 1981: 662-706.
"Comment proposes an alternative system that protects the legitimate interests of the CIA in a manner more consistent with first amendment values."

Park, Robert L.
Intimidation leads to self-censorship in science. Bulletin of the atomic scientists, v. 41, Mar. 1985: 22-25.
"Bowing to pressure from federal authorities and individual scientists under contract to the Department of Defense, universities and scientific groups are beginning to close the doors to their own conferences."

Pentagon Papers case collection: annotated procedural guide and index. Berkeley, Calif., Meiklejohn Civil Liberties Institute, c1975. 208 p.
Materials relating to the 1972 Supreme Court decision New York Times v. United States.

The Pentagon vs. the press. Harper's magazine, v. 271, Nov. 1985: 37-41, 44-46, 48, 50-52.
"Condensed and edited version of a discussion held at the Scanticon Conference Center in Princeton, New Jersey, as part of the Columbia University Graduate School of Journalism's Media and Society Seminars. The discussion, entitled 'The Military and the News Media,' was broadcast on PBS last January."

Pike, John.
When science is outlawed . . . Inquiry (San Francisco), v. 5, Mar. 29, 1982: 21-25.
Warns that the Reagan administration may be seeking to impose mandatory restrictions on the dissemination of scientific and technical information, including prepublication review of technical papers and increased controls on scientific exchanges with the Soviet Union.

Powe, Lucas A., Jr.
The constitutional implications of President Reagan's censorship Directive 84. Center magazine, v. 17, Mar.-Apr. 1984: 2-9.
"The Reagan Administration's National Security Decision Directive 84, the demand that all government officials having access to high-level classified information submit to government review all their manuscripts written for the general public, is an outrageous assault on the First Amendment."

Publishing, perishing, and the First Amendment. APF [Alicia Patterson Foundation] reporter, v. 2, May 1, 1979: 1-20.
Reports on an Apr. 1979 conference on the issues raised by the case of United States v. The Progressive. "It was a conference where Professor Albert Carnesale of Harvard said that while no wise person believes everything ought to be secret, perhaps there ought to be some secrets on earth, and perhaps the blueprint for the H-bomb ought to be among those. Benjamin Bradlee of the Washington Post complained that he felt 'cornered' into supporting Erwin Knoll's right to publish. Lee Marks, attorney for the Department of State, commented that he prefers to be on the other side of First Amendment issues, but that this case is isolated and unique."

Relyea, Harold C.
Increased national security controls on scientific communication. Government information quarterly, v. 1, no. 2, 1984: 177-207.

Explores both the current controversy over government control of scientific communication and the historical background of this issue. Asserts that "such restrictions can severely curtail U.S. scientific achievement and progress, with consequential harm to the intellectual and economic, as well as military security of the nation."

---

National security controls and scientific information. Information reports and bibliographies, v. 14, no. 6, 1985: 2-13.

"Growing concern about the acquisition of American scientific and technological knowledge by the Soviet Union and its Warsaw Pact allies has prompted efforts to increase national security controls on the communication of certain scientific information both within the United States and abroad." Includes a list of congressional hearings, reports, and documents, a chronology of events, and additional reference sources.

Report of the Public Cryptography Study Group. Academe, v. 67, Dec. 1981: 372-382.

The Public Cryptography Study Group was assembled by the American Council on Education in response to the National Security Agency's concern that information contained in professional journals and monographs might be inimical to national security.

Rosenow, Patrick M.

Open house or open forum: when commanders invite the public on base. Air Force law review, v. 24, no. 3, 1984: 260-274.

"Provides a background that will enable staff judge advocates to give their clients, the commanders, timely and competent counsel."

Ruffenach, Glenn J.

The CIA and censorship. Columbia, School of Journalism, University of Missouri, 1980. 7 p. (Freedom of Information Center report no. 430)

"The CIA's secrecy oath, has been criticized as a prior restraint on First Amendment rights. In Snepp v. United States, however, the Supreme Court upheld the oath as an enforceable contract and a 'reasonable means for protecting' national security. Both sides of the issue are explored in this report, which examines the CIA's cases against Victor Marchetti, Frank Snepp and Philip Agee."

Sanderson, Arlene.

Intelligence identities protection. Columbia, School of Journalism, University of Missouri, 1982. 8 p. (Freedom of Information Center report no. 455)

The article is followed by a short note: Constitutionality questioned, by Wendy Tai.

Schmidt, Richard. Shure, Cecile.

Government secrecy. Newsletter on intellectual freedom, v. 33, Sept. 1984: 129, 159-169.

"At the American Library Association's 1984 Annual Conference in Dallas, Texas, the ALA Intellectual Freedom Committee and the Association of American Publishers Freedom to Read Committee cosponsored a program entitled 'Government Secrecy.' The program featured Richard Schmidt, prominent Washington, D.C., civil liberties attorney and AAP Washington counsel, and Cecile Shure, a Consultant with B-K Dynamics and an expert in technology transfer."

A Scientist's view of government control over scientific publication and an alternative view. IEEE technology and society magazine, v. 1, Sept. 1982: 17-23.
In this exchange of ideas, Peter Denning of the Association of Computing Machinery and Admiral Bobby Inman, former Deputy Director of the CIA, discuss scientific freedom and national security.

Senators and scientists object to SDI costs and uncertainties. Physics today, v. 38, July 1985: 55-59.
Reviews the debate in Congress and among university scientists on how to deal with the Administration's Strategic Defense Initiative. Issues rasied include openness in scientific communication vs. government controls on research information.

Shattuck, John.
Federal restrictions on the free flow of academic information and ideas. Government information quarterly, v. 3, no. 1, 1986: 5-29.
"Recent actions by some agencies of the federal government threaten to erode academic freedom by imposing requirements of prepublication review on government sponsored university research, restricting the access of foreign scholars to U.S. classrooms and laboratories, authorizing the secret classification of research projects after the research has been undertaken, and limiting the dissemination of sensitive but unclassified research information through a system of export controls."

Should the Government have barred the media from Grenada? Common cause magazine, v. 9, Nov. 9, Nov.-Dec. 1983: 20-25.
"While the fighting in Grenada has died down and reporters are now freely filing stories from the island, the debate about censorship--and the public's right to know--still rages. The following excerpts, taken from newspapers, magazines and congressional testimony, speak for themselves."

Sidle, Winant.
The public's right to know. United States Naval Institute proceedings, v. 111, July 1985: 37-43.
General Sidle, chairman of the Military-Media Relations Panel convened as a result of the reaction to the news blackout on the Grenada invasion, discusses the public's right to know and the media's First Amendment rights as they relate to military operations.

Smith, J. Morgan.
Wanted: a responsible free press. United States Naval Institute proceedings, v. 110, July 1984: 77-85.
"If operational/national security and troop safety can be protected, then the public has a right to be informed via the media of unfolding events during military operations."

Soloski, John. Dyer, Carolyn Stewart.
The cost of prior restraint: U.S. v. The Progressive. Communications and the law, v. 6, Apr. 1984: 3-23.
"The cost of litigation poses a serious threat to the freedom of the press. The existing means of financing media litigation are inadequate, and there is a need for a comprehensive system of responding to media legal problems."

Striking a balance: national security and scientific freedom; first discussions. Edited by Harold C. Relyea. Washington, American Association for the Advancement of Science, 1985. 133 p.
Partial contents.--Government control of private ideas, by M. Cheh.--A scientist's view of government control over scientific communication, by P. Denning.--National security and technical information, by B. Inman.--Shrouding the endless frontier--scientific communication and national security: the search for balance, by H. Relyea.

Ungar, Sanford J.
The papers & the Papers: an account of the legal and political battle over the Pentagon Papers. New York, Dutton, 1972. 319 p.
Discusses the 1971 Supreme Court decision New York Times v. United States.

Unger, Stephen H.
The growing threat of government secrecy. Technology review, v. 85, Feb.-Mar. 1982: 30-39, 84-85.
"Under the guise of national security, barriers are being erected to the free flow of scientific information. This trend endangers fundamental freedoms and, ironically, may damage U.S. technological development."

U.S. Congress. House. Committee on Armed Services. Investigations Subcommittee.
Relating to the administration of polygraph examinations and prepublication review requirements by Federal agencies. Hearing, 98th Congress, 2nd session. Sept. 6, 1984. Washington, G.P.O., 1985. 150 p.
At head of title: H.A.S.C. no. 98-52.

U.S. Congress. House. Committee on the Judiciary. Subcommittee on Civil and Constitutional Rights.
Presidential directive on the use of polygraphs and prepublication review. Hearings, 98th Congress, 1st and 2nd sessions. Apr. 21, 28, 1983 and Feb. 7, 1984. Washington, G.P.O., 1985. 422 p.
"Serial no. 14"

U.S. Congress. House. Committee on Science and Technology. Subcommittee on Science, Research and Technology.
Impact of national security considerations on science and technology. Hearing before the Subcommittee on Science, Research and Technology and the Subcommittee on Investigations and Oversight of the Committee on Science and Technology, U.S. House of Representatives, 97th Congress, 2nd session. Mar. 29, 1982. Washington, G.P.O., 1982. 269 p.

---

Scientific communications and national security. Hearing before the Subcommittee on Science, Research and Technology and the Subcommittee on Investigations and Oversight of the Committee on Science and Technology, House of Representatives, 98th Congress, 2nd session. May 24, 1984. Washington, G.P.O., 1984. 184 p.

U.S. Congress. Senate. Committee on Governmental Affairs.
National Security Decision Directive 84. Hearing, 98th Congress, 1st session. Sept. 13, 1983. Washington, G.P.O., 1984. 206 p. (Hearing, Senate, 98th Congress, 1st session, S. Hrg. 98-568)

U.S. Defense Science Board. Task Force on University Responsiveness to National Security Requirements.
Report. Washington, U.S. Dept. of Defense, 1982. 1 v. (various pagings)
The principal findings of this study maintain that universities require sustained federal assistance to meet national defense needs, and that export control regulations pose a problem for university researchers because of the uncertainty as to what is military sensitive.

U.S. Dept. of Defense. Security Review Commission.
Keeping the nation's secrets: a report to the Secretary of Defense.
Washington, The Dept., 1985. 114 p.
Popularly known as the Stilwell Report, this document discusses requests for security clearance, eligibility for security clearances, initial investgations, adjudication, periodic reinvestigations, use of the polygraph as a condition of continuing access, and establishing special controls for access to cryptographic materials.

U.S. General Accounting Office.
Review of Department of Defense investigation of leak of classified information to the Washington Post. Oct. 7, 1982. Washington, G.A.O., 1982. 7 p.
"GAO/GGD-83-15."
Concludes "that DOD complied with its Directive on the use of the polygraph and that the level of the officials involved did not affect either the impartiality or the professionalism of the investigators . . . . The investigation was done in an effective manner and . . . the rights of the DOD employees involved were protected."

Whatley, Frederick W.
Reagan, national security, and the First Amendment: plugging leaks by shutting off the main. Washington, Cato Institute, 1984. 18 p. (Policy analysis no. 37)
Objects to the lifetime prepublication review requirements proposed by the Reagan Administration in National Security Decision Directive 84.

Wreden, Nick.
Prior restraint and the Progressive. Columbia, School of Journalism, University of Missouri, 1981. 5 p. (Freedom of Information Center report no. 446)
"In 1979 the U.S. government sought and received prior restraint against the publication of an article about the H-bomb. The case once again raised serious questions about the ability of the press to discuss issues relating to the security of the nation."

## I. ACADEMIC AND SCIENTIFIC FREEDOM

Bennett, James T. Johnson, Manuel H.
The future of the modern university: demographics, academic freedom and collectivism. Journal of social and political studies, v. 5, spring-summer 1980: 149-153.
Argues that "because the goals of unionism are directly opposed to the values of higher education, widespread adoption of collective bargaining will destroy academic freedom and the emphasis on individual excellence that is so essential to higher education."

Brock, David.
The big chill: a report card on college censorship. Policy review, no. 32, spring 1985: 36-39.
Looks at recent incidents on American campuses where speakers have been prevented from expressing their views.

Carmen, Ira H.
The Constitution in the laboratory: recombinant DNA research as "free expression." Journal of politics, v. 43, Aug. 1981: 737-762.
Examines to what extent scientific investigation requires First Amendment shelter.

Day, Louis A.
In search of a scholar's privilege. Communications and the law, v. 5, spring 1983: 3-21.
"Article focuses on three questions: Is there a need for a researcher-subject testimonial privilege? If so, upon what legal principles might such a privilege be predicated? What should be the nature and scope of this privilege?"

Favre, David. McKinnon, Matthew.
The new Prometheus: will scientific inquiry be bound by the chains of government regulation? Duquesne law review, v. 19, summer 1981: 651-730.
Article proposes that a constitutional right of scientific inquiry exists and attempts to balance that right and the state's interest in protecting itself and its citizens.

Ferguson, James R.
Scientific and technological expression: a problem in First Amendment theory. Harvard civil rights-civil liberties law review, v. 16, fall 1981: 519-560.
Article applies "standard first amendment doctrine to a number of constitutional problems involving state-imposed restrictions on scientific speech."

Finkin, Matthew W.
On "institutional" academic freedom. Texas law review, v. 61, Feb. 1983: 817-857.

Article focuses on Princeton University v. Schmid in analyzing the differences between institutional autonomy and academic freedom. "Princeton laid claim to institutional autonomy--the freedom of a university from control by the state--and then characterized that claim as one of academic freedom under the first amendment."

Harding, Judith Tarr.
No fair hearing. Liberty, v. 76, July-Aug. 1981: 10-13.
Maintains that many scientists dogmatically reject an opportunity for proponents of scientific creationism to present their case. "Ideological views about the nature of science prevent any hypothesis implying a Creator from coming to court for a fair trial."

Hodges, Debra K.
Postsecondary faculty members' rights of free speech. Journal of college and university law, v. 9, no. 1, 1982-83: 85-99.
Comment "present[s] a guide to both faculty members and administrators as to those various circumstances in which a faculty member may freely speak out on issues and what procedural safeguards are applicable when disciplinary actions are contemplated for such utterances."

Hunter, Howard O.
The constitutional status of academic freedom in the United States. Minerva, v. 19, winter 1981: 519-568.
"Academic freedom is essential to the survival of universities as free and open institutions devoted to the pursuit of truth . . . . The idea is alive and is in a relatively flourishing condition, and, in the United States, it has its roots in the constitutionally protected freedoms of speech and press as well as the more amorphous idea of personal liberty."

Kaplan, David A. Cogan, Brian M.
The case against recognition of a general academic privilege. University of Detroit journal of urban law, v. 60, winter 1983: 205-239.
"Discusses the development of the concept of academic freedom and highlights the distinction between judicial protection of that concept, on the one hand, and recognition of academic privilege, on the other, [and] proposes that an academic privilege should be recognized only in special cases and that the researcher asserting such a privilege should bear the burden of proof."

Levit, Nancy.
Creationism, evolution and the First Amendment: the limits of constitutionally permissible scientific inquiry. Journal of law and education, v. 14, Apr. 1985: 211-227.
Argues that the creationists' current strategy is constitutionally impermissible, suggests that the interface between what is lawful and what is scientific should be the focal point for both courts and educators, and proposes an approach which balances first amendment interests with the need for academic freedom."

Limits of scientific inquiry. Daedalus, v. 107, spring 1978: whole issue.
Partial contents.--Concerns about science and attempts to regulate inquiry, by L. Graham.--Academic freedom and scientific freedom, by W. Metzger.--Public criticism of health science policy, by P. Hutt.--The problem of research priorities, by H. Brooks.--Threats and promises: negotiating the control of research, by D. Nelkin.--Misgivings about life-extending technologies, by R. Morison.

Matherne, J. Graham.
Forced disclosure of academic research. Vanderbilt law review, v. 37, Apr. 1984: 585-620.
"Courts should not elevate academic freedom to a constitutional right when the Federal Rules [of Civil Procedure] provide an adequate framework for addressing the issue of forced disclosure of academic research."

O'Neil, Robert M.
Academic freedom and the Constitution. Journal of college and university law, v. 11, winter 1984: 275-292.
Article gives a historical review of issues in academic freedom and the use of litigation to resolve these issues. Also, identifies current threats to academic freedom.

Pool, Ithiel de Sola.
The new censorship of social research. Public interest, no. 59, spring 1980: 57-66.
Asserts that HEW's proposed rules for protecting human subjects of social science research would, if enforced, transform independent academic researchers into a "disciplined staff whose research would most certainly be controlled" and "firmly establish prior restraint in America."

Reagan, Gerald M.
Contemporary constraints on academic freedom. Educational forum, v. 46, summer 1982: 391-402.
"Our concept of academic freedom, forged in simpler times and designed primarily to protect scholarship from demands that certain doctrines or views not be taught or researched, overlooks some contemporary restictions which are more subtle but no less important."

Rosenblatt, David P.
The regulation of recombinant DNA research: the alternative of local control. Boston College environmental affairs law review, v. 10, 1982: 37-78.
"This article will discuss the regulation of recombinant DNA in light of recent developments in the recombinant DNA debate, namely the Chakrabarty decision and the growth of the private genetic engineering industry."

Rosenblatt, Jean.
Controlling scientific information. [Washington, Congressional Quarterly] 1982. 491-508 p. (Editorial research reports, 1982, v. 2, no. 1)
Contents.--Federal restraints at issue.--Current government controls.--Attempts to strike a balance.

Seiler, Lauren H. Hurtha, James M.
Victory at HHS. Freedom at issue, no. 61, May-June 1981: 14-17.

"As finally drafted, federal regulations designed to protect human subjects of research will also prevent unwarranted curbs on the freedom of the researcher."

Slaughter, Sheila.
The danger zone: academic freedom and civil liberties. In The Academic profession. Philadelphia, American Academy of Political and Social Science, 1980. (Annals, v. 448, Mar. 1980) p. 46-61.
"Examines the way 'corresponding rights and duties' surrounding academic freedom were negotiated between professional associations and organizations of university managers and trustees."

Stevens, Charles J.
Preventing unnecessary intrusions on university autonomy: a proposed academic freedom privilege. California law review, v. 69, Sept. 1981: 1538-1568.
"Comment argues that the federal courts should recognize a qualified evidentiary privilege for universities that would require a trial court to balance the conflicting needs for confidentiality and disclosure before compelling discovery of sensitive university information."

Testing the limits of academic freedom. University of Pennsylvania law review, v. 130, Jan. 1982: 712-743.
Comment looks at the question of whether private universities enjoy special protection under the first amendment. "Argues that the core educational functions of universities should indeed enjoy special protection under the first amendment."

Wentz, Julia A.
Balancing academic freedom and civil rights: toward an appropriate privilege for the votes of academic peer review committees. Iowa law review, v. 68, Mar. 1983: 585-600.
Comment "compare[s] the interests of non-tenured faculty members with those of both the individual members of peer review committees and the universities that they represent."

## J. PUBLIC SCHOOLS AND LIBRARIES

Bartlett, Larry D.
Student press and distribution issues: rights and responsibilities. Reston, Va., National Association of Secondary School Principals, 1984. 8 p.
"Student press and distribution issues have constrained the authority of public officials more than any other area of litigation involving student rights. Administrators have learned that many areas they believed were within their authority are not where freedom of the press is concerned. However, many students have also learned as a result of litigation that they are not provided first amendment protection for all conduct associated with publishing and distributing materials."

Black, Martha L.
School library censorship: First Amendment guarantees and the student's right to know. University of Detroit journal of urban law, v. 57, spring 1980: 523-545.
In support of student access to First Amendment materials regardless of community objections, the author contends that "school censorship is a counterpart to other first amendment censorship and suffers from the same political pessimism that has traditionally undercut the first amendment."

Books on trial: a survey of recent cases; a report from the Clearinghouse on School Book-Banning Litigation. [New York] National Coalition Against Censorship, c1985. 24 p.

Bryson, Joseph E.
The legal apects of censorship of public school library and instructional materials. Charlottesville, Va., Michie Co., c1982. 240 p.

Censorship and education. New York, H. W. Wilson, 1981. 238 p. (The Reference shelf, v. 53, no. 6)
Partial contents.--The climate of censorship.--The censors: groups and individuals.--Censorship in the schools and libraries.--Censorship court decisions.

Censorship in the eighties. Drexel library quarterly, v. 18, winter 1982: whole issue.
Contents.--Censorship in the information age: an introduction, by C. Busha.--"You shall know the truth": the new Christian Right and censorship, by C. Murray, Jr. and L. Woods.--The Moral Majority and popular political issues, by B. Shuman.--Self-censorship by librarians: an analysis of checklist-based research, by J. Serebnick.--Toward an intellectual freedom theory for users of libraries, by D. Berninghausen.--Textbook censorship and intolerance in the classroom, by E. Richardson.--International aspects of intellectual freedom, by E. Oboler.--Censorship and intellectual freedom: a bibliography, 1970-1981, by C. Busha.

Censorship and the challenge to intellectual freedom. Principal, v. 61, Jan. 1982: 8-11.
Focuses on the increase in attempts to censor materials used in the schools.

Cook, Earleen H.
School library and textbook censorship: a selected bibliography. Monticello, Vance Bibliographies, 1983. 30 p. (Public administration series: bibliography P-1206)

Faaborg, Karen Kramer.
High school play censorship: are students' First Amendment rights violated when officials cancel theatrical productions? Journal of law and education, v. 14, Oct. 1985: 575-594.
"In 1981, the Third Circuit held that a school superintendent's decision to cancel a play production as 'inappropriate for school sponsorship' does not infringe students' First Amendment rights. The court reasoned that such a decision is no different from other administrative decisions involving allocation of education resources and selection of curriculum; therefore, constitutional guarantees are not implicated. This article examines the Seyfried v. Walton opinion and concludes that this reasoning is superficial and incorrect."

FitzGerald, Frances.
A disagreement in Baileyville. New Yorker, v. 59, Jan. 16, 1984: 47-48, 50-54, 58-65, 67-82, 87-90.
Reviews the controversy over attempts to ban allegedly objectionable books from the Baileyville, Me., high school library and its relation to the issues in the Supreme Court's 1982 Island Trees decision.

Freeman, Brian A.
The Supreme Court and First Amendment rights of students in the public school classroom: a proposed model of analysis. Hastings constitutional law quarterly, v. 12, fall 1984: 1-70.
Partial contents.--The function of the public school classroom: value inculcation or marketplace of ideas.--The constitutional status of public school students--minors in a captive audience.--Board of Education v. Pico.--A proposed model of analysis for free speech in the public school classroom.

Fritz, Maranda E.
What will we tell the children? A discussion of current judicial opinion on the scope of ideas acceptable for presentation in primary and secondary education. Tulane law review, v. 56, Apr. 1982: 960-1005.
"Discussion of the state of the law in the major areas of dispute: sex education and controversial reading material. Also discussed throughout the article is a proposal for an alternative method of resolving book removal disputes."

Gordon, Robert M.
Freedom of expression and values inculcation in the public school curriculum. Journal of law and education, v. 13, Oct. 1984: 523-579.
"School authorities should be . . . inculcating those values necessary to maintain a democratic system of government, namely, values explicit or implicit in the Constitution. Nonconstitutional values should be taught only where the method of teaching them does not coerce students into believing in them."

Hentoff, Nat.
The principals of censorship. Progressive, v. 48, May 1984: 30-32.
"Students can print just about anything except material that is obscene or defamatory, or that may substantially disrupt the learning process in a school. School officials have the burden of proving that something is legally defamatory of libelous before they can order it excised--or that certain words are explosive enough to blow the school apart."

Intellectual freedom in the '80s: the impact of conservatism. Newsletter on intellectual freedom, v. 30, Nov. 1981: 149-154, 173-186.
Presents edited versions of remarks at a program at the 1981 American Library Association annual conference that "explored the impact of America's perceived shift to a more conservative political philosophy and the effect of this shift on library collections and the provision of library services. Two major speakers and four panelists focusing on target areas of current censorship attempts--sex education, gay materials, family issues, and creationism/evolution--contributed their thoughts."

Intellectual freedom manual. Compiled by the Office for Intellectual Freedom of the American Library Association. Chicago, The Association, 1983. 210 p.

Kamhi, Michelle Marder.
Limiting what students shall read; books and other learning materials in our public schools: how they are selected and how they are removed; summary report on the survey "book and materials selection for school libraries and classrooms: procedures, challenges, and responses," sponsored by the Association of American Publishers, the American Library Association, and the Association for Supervision and Curriculum Development. n.p., 1981. 37, 15 p.
Presents results of two 1980 mail questionnaire surveys of school librarians and administrators. "What the experiences reported . . . indicate is that censorship pressures on books and other learning materials in the public schools are real, nationwide, and growing."

Kline, Marjory R.
Social influences in textbook publishing. Educational forum, v. 48, winter 1984: 223-234.
Examines "the social pressures which are brought to bear upon textbook publishers and which influence publishers to serve as their own censors in the selection of 'appropriate' text material." Discusses the textbook adoption process in Texas.

Larsen, Terry J.
The power of the Board of Education to censor. Educational leadership, v. 38, Nov. 1980: 139-142.
"The jury is still out on the question of the right of boards of education to ban books. Regardless of how courts rule on the question, schools can show respect for parents' concerns."

Lavine, Karen S.
Free speech rights of homosexual teachers. Columbia law review, v. 80, Nov. 1980: 1513-1534.
Comment "examines the extent to which the first amendment protects teachers who discuss the subject of homosexuality."

Lemay, James C.
A definitional approach to secondary school students right to know. Ohio State law journal, v. 42, no. 4, 1981: 1025-1037.

Comment "explore[s] the distinct factual circumstances in which ad hoc and definitional balancing are properly used. It then show[s] why the current application of ad hoc balancing to school book cases poses a significant threat to students' first amendment freedom."

Massie, Dorothy C.
Censorship in the schools: something old and something new. Today's education, v. 69, Nov.-Dec. 1980: 30-34.
Reports that "between 1975 and 1980, three times as many censorship attempts were reported as in the preceding decade." Looks at the reasons behind the controversies over what subject matter may be taught in class and what books may be available to students in school libraries.

McGraw, Onalee.
Censorship and the public schools: who decides what students will read? American education, v. 18, Dec. 1982: 8-14.
Examines the issues behind attempts to censor educational materials.

Niccolai, Frances R.
The right to read and school library censorship. Journal of law & education, v. 10, Jan. 1981: 23-36.
Looks at the conflict between the administrative powers of school boards to control curriculum and the First Amendment rights of those within the school system. In recent cases "the courts have had to determine if students have a constitutional right to know and, if so, whether the removal of books from the library involved a violation of that right."

Nichols, John E.
Vulgarity and obscenity in the student press. Journal of law and education, v. 10, Apr. 1981: 207-218.
Article analyzes the positions that have been taken by the courts on material that has been published in high school newspapers that school administrators have felt was either vulgar or obscene.

Orleans, Jeffrey H.
What Johnny can't read: "First Amendment rights" in the classroom. Journal of law & education, v. 10, Jan. 1981: 1-15.
"This essay's premise is that representative, delegated school governance by elected officials (or officers they appoint) intrinsically vests curricular control in those very officials. Because their offices are created so that the schools may be governed, they have authority to govern the schools--even especially--in the delicate and critical areas of deciding how and what the schools shall teach. Their authority is not restricted because they deal in speech and values."

Pray, Lee.
What are the limits to a school board's authority to remove books from school library shelves? Wisconsin law review, v. 1982: 417-471.
Comment examines the Pico v. Board of Education case to demonstrate "the broad spectrum of issues involved in library book removal and shows that, even within one circuit, courts have had difficulty resolving the conflicting interests."

Rakstis, Ted.
The great book debate. Kiwanis magazine, v. 66, Sept. 1981: 18-21, 49.
Describes attempts by both conservative and liberal groups to ban books with which they disagree from schools and public libraries. Questions "how to achieve a balance between First Amendment rights and 'community standards.'"

Reed, Michael.
What Johnny can't read: school boards and the First Amendment. University of Pittsburgh law review, v. 42, spring 1981: 653-667.
Comment suggests "a workable standard which would serve to protect constitutional freedoms without usurping the authority over public education which properly resides in the hands of local officials."

Ricci, Richard.
Public school library book removals: community values v. First Amendment freedoms. Notre Dame lawyer, v. 57, Oct. 1981: 166-188.
Comment suggests an approach to removing objectional library books "which balances the first amendment rights of students against the authority of school boards to protect students from objectionable material."

Rogers, Luella P.
High school press pressures. Columbia, School of Journalism, University of Missouri, 1982. 6 p. (Freedom of Information Center report no. 460)
"After a decade of advancement and relative freedom, the high school press is facing the conservative pressures . . . which have tightened money and given rise to groups intent on censoring the school press."

Salem, Augusta Maria.
Removal of public school library books: the First Amendment versus the local school board. Vanderbilt law review, v. 34, Oct. 1981: 1407-1434.
"Examines the evolution of the student's right to academic freedom and his related right to receive information and then traces the legal background of the recognition of student rights in the book removal controversy."

Scott, John Anthony.
Book banning in the high schools, 1975-81. Social education, v. 46, Apr. 1982: 257-262.
"Cases that have arisen in various parts of the country . . . entitle us to talk about a 'clear and present danger' to First Amendment rights--the right of teachers to communicate knowledge, and the right of students to have access to books and to ideas without prior censorship by outside groups."

Smalls, O'Neal.
A legal framework for academic freedom in public secondary schools. Journal of law and education, v. 12, Oct. 1983: 529-559.
"Viewing academic freedom in public secondary schools as a constitutional freedom, right or doctrine is inappropriate. The true issues at stake are who shall decide what is to be taught in the classroom, and how do we ensure the free flow of information in public schools."

Sneller, Angela K.
Censorship in public schools. Columbia, School of Journalism, University of Missouri, 1981. 7 p. (Freedom of Information Center report no. 443)
"Attempts to control the content of books in school libraries and the content of curriculum are increasing rapidly, bringing into focus the question of what rights students have to receive information and what rights a community has in determining what information is taught and available in its schools."

Stevens, George E.
Contract law, State constitutions and freedom of expression in private schools. Journalism quarterly, v. 58, winter 1981: 613-617, 623.
Examines the differences in legal protection in freedom of expression controversies available to students in public and private schools.

Strike, Kenneth A.
A field guide to censors: toward a concept of censorship in public schools. Teachers College record, v. 87, winter 1985: 239-258.
Constructs two model theories concerning school censorship: "the conventional view, representing the view that seems characteristic of professional educators" and the second called "the censor's view" in order to understand the structure of the issue better.

Strossen, Nadine.
A framework for evaluating equal access claims by student religious groups: is there a window for free speech in the wall separating church and state? Cornell law review, v. 71, Nov. 1985: 143-183.
Focusing on a case before the Supreme Court during the 1985-1986 term, Bender v. Williamsport Area School District, this "Article shows that only a non per se approach is faithful to both sets of constitutional values implicated in any equal access case: the free speech values prohibiting content-based discrimination against speech and protecting high school students' expressive conduct, as well as the anti-establishment values prohibiting the public schools from sponsoring any religious expression."

Sweet, William.
Schoolbook controversies. Washington, Congressional Quarterly, 1982. 675-692 p. (Editorial research reports, 1982, v. 2, no. 10)
Partial contents.--Challenges to assigned reading.--Books and groups in dispute.--Politics of textbook selection.--Schoolbooks in context.

Teitel, Ruti.
The unconstitutionality of equal access policies and legislation allowing organized student-initiated religious activities in the public high schools: a proposal for a unitary First Amendment forum analysis. Hastings constitutional law quarterly, v. 12, summer 1985: 529-595.
"This Article proposes that the first amendment free speech and free exercise rights to religious expression, which are the predicates of equal access theory, are limited by many of the same factors posing the establishment concern: the particular purpose of the public property and the presumption of government function, control, and involvement."

Thomas, Cal.
Book burning. Westchester, Ill., Crossway Books, c1983. 158 p.

U.S. Congress. Senate. Committee on the Judiciary.
Equal access: a First Amendment question. Hearings, 98th Congress, 1st session, on S. 815 and S. 1059. Apr. 28 and Aug. 3, 1983. Washington, G.P.O., 1984. 294 p. (Hearings, Senate, 98th Congress, 1st session, S. Hrg. 98-512)
"Serial no. J-98-35"

VanGeel, Tyll.
The search for constitutional limits on governmental authority to inculcate youth. Texas law review, v. 62, Oct. 1983: 197-297.
Article proposes "a standard for review of first amendment challenges to school board decisions concerning curricular materials in the public schools . . . . that more adequately reflects the importance of the student's interest in freedom of belief and the relative unimportance of government's interest in inculcating values and beliefs."

## K. POLITICS AND ELECTIONS

Abeshouse, Robert P.
FCC watch: the political editorial and personal attack rules. Campaigns & elections, v. 4, fall 1983: 43-46.
"Repeal of the personal attack and political editorial rules will allow broadcasters to air endorsements at the eleventh hour without giving candidates a right to reply and could generally weaken the fairness doctrine."

Baran, Jan.
Attempted regulation of independent group speech. New York University review of law and social change, v. 10, no. 1, 1980-1981: 87-92.
Article reviews the case law on expenditures of funds in support of a candidate, independent of that candidate's campaign, arguing that First Amendment considerations mandate a strict standard of proof of allegations that candidates and independent groups are acting together.

BeVier, Lillian R.
Money and politics: a perspective on the First Amendment and campaign finance reform. California law review, v. 73, July 1985: 1045-1090.
"Intense judicial scrutiny of legislatively enacted political contribution and expenditure limitations is both completely consistent with the first amendment tradition of political freedom and fully justified by institutional and enforcement considerations."

Blum, Jeffrey M.
The divisible First Amendment: a critical functionalist approach to freedom of speech and electoral campaign spending. New York University law review, v. 58, Dec. 1983: 1273-1382.
Article "presents a theory of the first amendment as having a 'dichotomous structure': certain 'core' speech activities, such as speaking, leafletting, and assembling, receive virtually absolute protection, while other activities, such as broadcasting and hiring canvassers, receive only discretionary protection oriented towards the collective good."

Cohen, Barbara Ellen.
The scope of First Amendment protection for political boycotts: means and ends in First Amendment analysis: NAACP v. Claiborne Hardware Co. Wisconsin law review, v. 1984, no. 4, 1984: 1273-1313.
"Categorization analysis requires judges to consider the lawfulness of not only the boycott's political objectives, but the means chosen to achieve them as well. However, the Court's failure to explicitly articulate this standard leaves unanswered questions about the proper criteria for categorization."

Deisley, David L.
CBS, Inc. v. Federal Communications Commission: recognition of Federal candidates' right of access to broadcasting facilities. Utah law review, v. 1982, no. 3, 1982: 641-656.

Comment concludes that "the CBS decision recognizes that candidates for federal elective offices have an affirmative right of access to broadcast facilities and mandates that broadcast licensees carefully consider the individual needs of candidates in responding to a request for access. That new rule further restricts broadcasters' editorial freedom for the benefit of a select group of individuals."

Easley, Allen K.
Buying back the First Amendment: regulation of disproportionate corporate spending in ballot issue campaigns. Georgia law review, v. 17, spring 1983: 675-758.
Article concludes that "affirmative governmental action is both appropriate and necessary to preserve first amendment values in ballot issue campaigns. The spending differential limit provides this protection at minimal cost."

Exit polls and the First Amendment. Harvard law journal, v. 98, June 1985: 1927-1945.
"Both state restrictions on exit polling and the proposed federal delay of election-night returns would violate the first amendment."

Fay, James S.
The legal regulation of political parties. Journal of legislation, v. 9, summer 1982: 263-281.
"Both state legislators and judges have worked to hamper the independence and restrict the First Amendment liberties of political parties. This article examines the restrictions, as well as the theoretical justification behind them, and suggests deregulation of the parties as a legitimate alternative to the current orthodoxy."

Fleishman, Joel L. McCorkle, Pope.
Level-up rather than level-down: towards a new theory of campaign finance reform. Journal of law & politics, v. 1, spring 1984: 211-298.
Article calls for reform of election financing practices by means of a "level-up" approach ("increasing the overall amount and diversity of political speech while rejecting comprehensive spending restrictions") in contrast to those proposals which "advocate extending public financing to congressional campaigns as well as comprehensively reducing and equalizing--or 'leveling down'--spending on behalf of any candidate."

Garfield, Leslie Yalof.
Curtailment of early election predictions: can we predict the outcome? University of Florida law review, v. 36, summer 1984: 489-520.
"If the Congress passes legislation regulating early election predictions, the danger exists of this restriction escalating into a much more dubious exercise of government control."

Graber, Doris A.
Mass media and American politics. 2nd ed. Washington, Congressional Quarterly, 1984. 385 p.
Examines "how electronic and print media, as institutions, form part of the U.S. political system and how they affect that system and are affected by it."

Gross, Malcolm J.
Lobbyists, PACs and kitchen cabinets: the secret public figures. Communications and the law, v. 7, Apr. 1985: 23-43.

Article contends that is would seem obvious that because of the importance of lobbyists, political action committees and kitchen cabinets "to government functions, the media should be free to criticize their activities without fearing retribution."

Hocker, Chris.
Legal barriers to third parties. New York University review of law and social change, v. 10, no. 1, 1980-1981: 125-130.
Article discusses "these major barriers to third parties and independents--ballot access requirements, the FECA itself, and equal time--[which] unite in their effect upon the American political system by guaranteeing a permanent two-party monopoly over political participation."

Ilgenfritz, Scott.
The unconstitutionality of limits on contributions to independent expenditure committees. University of Florida law review, v. 35, spring 1983: 316-343.
"Limits on contributions to independent expenditure committees, like limits on independent expenditures, directly and substantially abridge free speech and association. Further, limiting contributions to independent expenditure committees serves no compelling governmental interests."

Kelley, Dean M.
How much freedom of speech is allowed to the churches? Christianity and crisis, v. 41, Oct. 5, 1981: 260-264.
Rejects the contention that the constitutional principle of separation of church and state means that religious leaders, like current "right-wing fundamentalists," should abstain from political involvement.

Koppel, Robert S.
The applicability of the equal time doctrine and the reasonable access rule to elections in the new media era. Harvard journal on legislation, v. 20, summer 1983: 499-539.
"The equal time doctrine and the reasonable access rule are the most prominent federal statutory provisions regulating the appearance of political candidates on broadcast television . . . . Now, however, the emergence of new electronic media, such as cable television and electronic publishing, has rendered uncertain whether an extension of the current regulatory scheme is either desirable or constitutionally permissable."

Krasnow, Erwin G. Quale, John C.
A candidate's guide to the law of political broadcasting. 3d ed. Washington, National Association of Broadcasters, 1984. 16 p.
Contents.--Candidate's right no. 1--"Equal opportunities".--Candidate's right no 2--"The lowest unit rate".--Candidate's right no. 3--"The right to access".--Candidate's right no. 4--"No censorship".--Rules and policies which may affect political broadcasts.--What to do when negotiations fail.

Kwartler, Kenneth M.
Political broadcasting by independent committees: a proposal for eliminating the Federal Communications Commission's PACcess doctrine. Boston University law review, v. 64, May 1984: 625-682.
"Although candidates and their supporters operate under a strict and clearly defined regulatory structure to ensure informational and editorial balance in the broadcast media, no similar provisions exist to govern the broadcasting activities of IPCs [independent political committees]."

The Law of political broadcasting and cablecasting: a political primer, 1984 edition. Washington, Federal Communications Commission, 1984. 87 p.

Sets forth the provisions of "all laws, rules and policies about political broadcasting. This includes not only 'equal time' and 'censorship,' but 'reasonable access' for candidates for Federal office, the rates that may be charged candidates for time, the Fairness Doctrine as it applies to political campaigns, the personal attack and political editorializing rules, and the rules on sponsorship identification, logging of broadcasts and keeping a public file."

Leonardo, Stephen M.
Restricting the broadcast of Election-Day projections: a justifiable protection of the right of vote. University of Dayton law review, v. 9, winter 1984: 297-313.
"Network projections of election results do not encourage or even provide an opportunity for debate. Rather, they negatively impact upon the fundamental right to vote without providing a counterbalancing need for protection. The projections should therefore be banned."

Meehan, Mary.
Why they can't afford not to run in '84. Inquiry (San Francisco) v. 6, Mar. 1983: 18-22.
Argues that the Federal Election Commission, established by the Federal Election Campaign Act, "is strangling free speech and generally ruining American politics."

Mutch, Robert E.
Corporate money and elections: the new look of State law. State legislatures, v. 9, Feb. 1983: 22-25.
Assesses the historical reasons why many states had barred the use of corporate assets in elections. Considers corporate legal challenges to and recent state legislative reevaluations of these laws.

Neel, Richard F., Jr.
Campaign hyperbole: the advisability of legislating false statements out of politics. Journal of law & politics, v. 2, fall 1985: 405-424.
"Although most campaign falsity statutes satisfy constitutional requirements, their advisability is questionable. The statutes are ineffective in combatting calculated campaign falsity, and candidates have an effective way to respond to such attacks through their access to the media and the public. Moreover, the statutes regulate an area of expression that lies at the core of the first amendment's freedom of speech guarantees."

Nelson, Frederick D.
Regulation of independent political campaign expenditures: less is more and Wright is wrong. Harvard journal of law and public policy, v. 7, winter 1984: 261-302.
Article argues against the position of Judge Skelly Wright "that expenditure regulations do not merit stringent scrutiny because they merely provide non-content based restrictions on speech-related conduct . . . . Judge Wright's argument cannot stand, for not only are expenditure regulations not 'content neutral,' they are not even politically neutral."

Orloff, Gordon M.
The political boycott: an unprivileged form of expression. Duke law journal, v. 1983, Nov. 1983: 1076-1094.

"Because a political boycott deprives its victims of their own freedom of speech and association, it should not be considered a protected means of speech . . . . Although attempts to persuade individuals to act are usually protected by the first amendment, attempts to coerce individuals to act are not so immunized."

Ostroff, David H.
Equal time: origins of section 18 of the Radio Act of 1927. Journal of broadcasting, v. 24, summer 1980: 367-380.
Examines political broadcasting problems of the 1920s and debate in the 69th Congress which led to passage of the Radio Act of 1927, predecessor of the Communications Act of 1934. Considers which of the conditions leading to the original adoption of the Equal Time Rule are still causes for concern today, and which changes in broadcasting and politics might call for modifying or deleting the rule.

Political broadcast catechism. 10th ed. Washington, National Association of Broadcasters, 1984. 61 p.
Contents.--Political broadcasts under sections 312 and 315 of the Communications Act.--The Fairness Doctrine and political broadcasts.--FCC handling of complaints and inquiries concerning political broadcasts.--Political broadcast agreement form.--Laws and regulations governing political broadcasts.

Richards, Eric L.
The rise and fall of the contribution/expenditure distinction: redefining the acceptable range of campaign finance reforms. New England law review, v. 18, no. 2, 1983: 367-394.
"Limits on expenditures and other forms of direct advocacy would be examined under the strictest judicial scrutiny while contribution limits, as interference with speech by proxy, would be assessed under a less rigorous standard of review."

Shiffrin, Steven.
Government speech. UCLA law review, v. 27, Feb. 1980: 565-655.
Article maintains that limits of content and structure need to be placed on the Government's power to support or directly advance and promote ideas to the public.

Sligar, James S.
Constitutionality of the tax on lobbying by private foundations under Section 4945(d)(1) of the Internal Revenue Code. Taxes, v. 61, May 1983: 306-318.
"According to the author, Section 4945(d)(1), by imposing a direct tax akin to a fine or penalty on all lobbying expenditures by private foundations, violates the First Amendment under precedent of Speiser and Bellotti, as well as the Fifth Amendment guarantee of equal protection."

Smith, Anthony.
Mass communications. In Democracy at the polls: a comparative study of competitive national elections. Edited by David Butler, Howard R. Penniman, and Austin Ranney. Washington, American Enterprise Institute for Public Policy Research, c1981 (AEI studies 297) p. 173-195.
Compares and contrasts the function of the mass media in the elections of 28 democratic countries, reviewing political bias, the role of television, rules governing allocation of broadcasting time, nature and consequences of TV news coverage, and the connoisseurship of the viewer.

State and local limitations on ballot measure contributions. Michigan law review, v. 79, June 1981: 1421-1453.
Comment holds that ballot measure limitations unconstitutionally infringe on free speech rights, a position contrary to the 1981 California decision approving a $250 ceiling in Citizens Against Rent Control v. Berkeley.

U.S. Congress. House. Committee on House Administration. Task Force on Elections.
Broadcast media in elections. Hearing held jointly before the Task Force on Elections of the Committee on House Administration and the Subcommittee on Telecommunications, Consumer Protection, and Finance of the Committee on Energy and Commerce, U.S. House of Representatives, 98th Congress, 1st session. July 21, 1983. Washington, G.P.O., 1984. 102 p.
"Serial no. 98-72 (Energy and Commerce)"

Weisburd, Arthur M.
Candidate-making and the Constitution: constitutional restraints on and protections of party nominating methods. Southern California law review, v. 57, Jan. 1984: 213-281.
"Article analyzes the proposition that party nominating is necessarily state action, and concludes that it is not . . . . Article [also] discusses political parties' constitutional right of free association. It concludes that, in light of the parties' rights to associational freedom, statutes requiring parties to use particular nominating methods are of doubtful constitutionality."

Wright, J. Skelly.
Money and the pollution of politics: is the First Amendment an obstacle to political equality? Columbia law review, v. 82, May 1982: 609-645.
Federal appellate judge argues that the Supreme Court's 1976 Buckley and 1978 Bellotti decisions are "tragically misguided" and have "given protection to the polluting effect of money in election campaigns. As a result, our political system may not use some of its most powerful defenses against electoral inequalities."

## L. COMMERCIAL SPEECH AND CORPORATE SPEECH

ALI-ABA Course of Study: "Commercial Speech" and the First Amendment; materials. [Philadelphia] American Law Institute-American Bar Association Committee on Continuing Professional Education, c1979. 409 p.

Advertising and free speech. Edited by Allen Hyman, M. Bruce Johnson. Lexington, Mass., Lexington Books, c1977. 108 p.
Papers of a conference conducted by the Law and Economics Center of the University of Miami School of Law held at Key Biscayne, April 1976.

Brudney, Victor.
Business corporations and stockholders' rights under the First Amendment. Yale law journal, v. 91, Dec. 1981: 235-295.
Article argues that outside the communications business the "First Amendment does not preclude a government requirement of stockholder consent that may effectively prohibit either some or all noncommercial speech."

D'Angelo, Julianne B.
Revision of the SBA opinion molder rule. San Diego law review, v. 19, no. 4, 1982: 801-822.
"The Small Business Administration is currently re-evaluating its 'opinion molder' rule which bans loan assistance to businesses which promulgate ideas or opinions. This Comment examines the justifications for and application of the rule [and] contends that it has serious constitutional problems."

Floyd, Charles F.
Billboards, aesthetics and police power: legislature developments have largely negated judicial gains by scenic beauty proponents. American journal of economics and sociology, v. 42, July 1983: 369-382.
Examines judicial and legislative trends regarding billboard advertising.

Gottlieb, Stephen E.
Government allocation of First Amendment resources. University of Pittsburgh law review, v. 41, winter 1980: 205-249.
Article, noting that increasing economic concentration in institutions dealing in thought and expression threatens freedom of thought, argues that "we must re-examine first amendment doctrine and develop standards for government intervention which will preserve freedom of thought as distinct from economic freedom."

Kaplan, Marilyn R.
Commercial speech and the right to privacy: constitutional implications of regulating unsolicited telephone calls. Columbia journal of law and social problems, v. 15, no. 3, 1980: 277-315.
Article describes "the development and current status of the first amendment commercial speech doctrine . . . . Focus[es] upon the right to privacy as protected by the Supreme Court, and the extent to which unsolicited telephone calls intrude upon that right."

Kelly, Janet L.
Note, Consolidated Edison Co. v. Public Service Commission, 100 S. Ct. 2326 (1980). Wisconsin law review, v. 1981, no. 2, 1981: 399-418.
Comment concludes that "the U.S. Supreme Court upheld a first amendment challenge to a PSC [Public Service Commission] ruling barring the utility from using billing-envelope inserts to promote the use of nuclear energy. The Court rejected contentions that the utility's speech on political or controversial topics deserved less first amendment protection because it is a heavily regulated industry."

Keto, David B.
The corporation and the Constitution: economic due process and corporate speech. Yale law journal, v. 90, July 1981: 1833-1860.
"Sets forth an outline of liberal democratic theory pertinent to the issue of corporate constitutional rights." Contends that "granting First Amendment rights to corporations does not serve any free expression interests."

Loevinger, Lee.
Free speech in advertising. Food drug cosmetic law journal, v. 39, Apr. 1984: 217-229.
Traces the development of First Amendment rights for advertising. Notes that although commercial speech has great freedom, constitutionally protected, there is nothing in the First Amendment to limit government action against false, deceptive, or misleading advertising.

Maginness, Craig R.
The exchange of price information as a restraint of trade: reassessing per se rules in light of First Amendment protection of commercial speech. Fordham law review, v. 48, May 1980: 1005-1026.
Article discusses the first amendment rights of antitrust defendants and the resultant effect on the evidentiary burden in a price information exchange case. Contends that the Government should not be permitted to rely on speech among competitors as the only significant evidence of a Sherman Act violation.

Patton, William. Bartlett, Randall.
Corporate "persons" and freedom of speech: the political impact of legal mythology. Wisconsin law review, v. 1981, no. 3, 1981: 494-512.
Article considers political implications of the 1978 Supreme Court decision, First National Bank of Boston v. Bellotti, which established freedom of speech for corporations. The authors argue that "by permitting some natural persons to use corporate funds in the political process, the potential for political power created by the state becomes a reality."

Powell, Lisa A.
Products liability and the First Amendment: the liability of publishers for failure to warn. Indiana law review, v. 59, 1983-1984: 503-526.
Points to a "discrepancy in the law of torts. A publisher may publish material causing physical harm with impunity, although liability is imposed for negligent use of language in many other circumstances."

Randolph, Mary C.
Metromedia, Inc. v. City of San Diego. Ecology law quarterly, v. 10, no. 1, 1982: 125-137.

"Metromedia, Inc. v. City of San Diego was an appeal from a California Supreme Court decision upholding a San Diego city-wide ban on off-site billboards. The United States Supreme Court, in a divided decision, struck down the San Diego ordinance on the grounds that it abridged first amendment guarantees of freedom of speech and unfairly favored 'commercial' over 'noncommercial' speech."

Rohrer, Daniel M.
Mass media, freedom of speech, and advertising: a study in communication law. Dubuque, Iowa, Kendall-Hunt Pub. Co., c1979. 700 p.

Rome, Edwin P. Roberts, William H.
Corporate and commercial free speech: First Amendment protection of expression in business. Westport, Conn., Quorum Books, 1985. 269 p.

Rotfeld, Herbert J.
The compatibility of advertising regulation and the First Amendment--another view. Journal of marketing & public policy, v. 1, 1982: 139-146.
"By analyzing the different legal, philosophical, and historical roots of advertising-regulatory law and the First Amendment, this study indicates why advertising's regulatory constraints should not be seen as a precedent for regulation of the press, and gives guidance to marketers as to which aspects of their advertising will probably be subject to regulation."

Russo, Dorcas A.
Advertisements for contraceptives as commercial speech in the broadcast media. Case Western Reserve law review, v. 31, winter 1981: 336-362.
Comment "analyzes the issue of contraceptive advertising under the first amendment by discussing traditional first amendment theory, the evolving commercial speech doctrine, and the special problems presented by the pervasiveness of electronic broadcasting and widespread government regulation of broadcasting. After noting the interplay of these doctrines, the [comment] concludes that the advertisement of contraceptives cannot be constitutionally banned from the public airwaves."

The SEC and the First Amendment. Washington, Media Institute, c1984. 13 p. (Issues in communications, 1)

Schaefer, F. W. Dietmar.
The First Amendment, media conglomerates and 'business' corporations: can corporations safely involve themselves in the political process? St John's law review, v. 55, fall 1980: 1-41.
"The Supreme Court should clarify the role of issue advertising in the context of its contribution to the first amendment 'process.'"

Scharlott, Bradford W.
The First Amendment protection of advertising in the mass media. Communications and the law, v. 7, summer 1985: 43-58.
Article concludes that since the Supreme Court gave all advertising protection in its Virginia Pharmacy decision (1975), it has shown that "nonetheless, false and misleading advertising can be regulated, as can advertising that conduces illegal activity. And the circumstances under which advertising can take place may be restricted."

Schwartz, Herbert.
Corporations and the First Amendment. New York, AMACOM, c1978. 40 p. (An AMA management briefing)

Shinners, Gary W.
Offensive personal product advertising on the broadcast media: can it be constitutionally censored? Federal communications law journal, v. 34, winter 1982: 49-91.
"To be considered harmful, speech must be more than merely offensive, and even then an absolute prohibition on its broadcast is forbidden. Thus, even as 'merely commercial broadcast speech,' personal product advertisements constitutionally cannot be banned."

Stevenson, Leo J.
The privately owned shopping center: is it a marketplace for ideas? Employee relations law journal, v. 8, spring 1983: 684-706.
"Provides an historical perspective on the right to free speech at the privately owned shopping center and discusses the major cases that have addressed that issue."

Symposium on commercial speech. Held at Brooklyn Law School, November 10, 1979. Brooklyn law review, v. 46, spring 1980: whole issue.
Partial contents.--Regulation of lawyer advertising: in the public interest? by R. Brosnahan and L. Andrews.--A rationale for protecting and regulating commercial speech, by B. Neuborne.--The Federal Communications Commission's impact on product advertising, by R. Lee.--The First Amendment: barrier or impetus to FTC advertising remedies? by T. Westen.--The case for FTC regulation of television advertising directed toward children, by M. Pauker.--The pursuit of access in the electronic forum: can such a right be wrong? by D. Lively.

Willard, Charles A. Isaacson, Thomas A. Smith, Cyril V.
The rights of consumers: a basic overview on the question of consumer product safety. Skokie, Ill., National Textbook Company 1980 281 p. (U.S. Consumer Product Safety Commission. Contemporary issues series)
Contents.--Mass persuasion: accessory before the fact?--Consumer safety education.--First Amendment implications of product safety.--Cost-benefit analysis.--The regulatory battleground.

## M. EMPLOYEE AND LABOR RIGHTS

Carroll, Mark T.
Protecting private employees' freedom of political speech. Harvard journal on legislation, v. 18, winter 1981: 35-89.
"Advocates the adoption of either a model statute or common-law rules that would prevent employers from firing employees for non-disruptive political activity."

Castle, Robert C. Pegnetter, Richard.
Secondary picketing: the Supreme Court limits the Tree Fruits exception. Labor law journal, v. 33, Jan. 1982: 3-16.
"The purpose of this article is to examine the treatment of secondary boycotts and picketing by Congress and by the courts."

Constitutional and statutory liberties in the employment relationship. Mercer law review, v. 32, winter 1981: whole issue; spring 1981: whole issue.
Partial contents.--Manipulating forum jurisdiction and generating a law of employee free speech, by I. Rutledge.--The 'squeaky wheel' employee: to grease or to replace and the costs of each, by C. Edwards and L. Brooks, III.--NLRB campaign laboratory conditions doctrine and free speech revisited, by J. Wimberly, Jr. and M. Steckel.--The constitutionality of labor unions' collection and use of forced dues for non-bargaining purposes, by H. Reilly.--A survey: NLRB limits on appeals to racial prejudices of employees, by J. Campbell.--Community defense of union-free status, by M. Caldwell.--A survey of recent retail facilities nonemployee access decisions, by R. Willis, III.--Longshoremen's embargo of Soviet goods: a secondary boycott or a political protest?

Dodd, Martin H.
Of Mastro and Marathon: waiver of the right to strike over unfair labor practices in a Boys Markets world. Industrial relations law journal, v. 5, no. 2, 1983: 203-246.
"The right to strike against serious unfair labor practices should be non-waivable; otherwise the potential availability of injunctive relief may sap the strength from free association in the interest of industrial stability."

Estlund, Cynthia.
Labor picketing and commercial speech: free enterprise values in the doctrine of free speech. Yale law journal, v. 91, Apr. 1982: 938-960.
"The failure to extend constitutional protection to consumer picketing, when viewed together with the increased protection given commercial advertising, reveals substantive economic policy judgments made in the guise of First Amendment adjudication."

Finnegan, W. F.
Remedies for secondary picketing at defense installations. Army lawyer, no. 126, June 1983: 1-17.
Article concentrates "on the detailed procedure involved in the use of the NLRB Regional Office for achieving relief in secondary boycott cases."

Glick, Charles.
Free speech, the private employee, and State constitutions. Yale law journal, v. 91, Jan. 1982: 522-549.
Argues that free expression by non-union, private sector employees requires protection and that the free speech provisions of State constitutions provide a means for such protection.

McCabe, Peter C., III.
Connick v. Myers: new restrictions on the free speech rights of government employees. Indiana law journal, v. 60, no. 2, 1985: 339-363.
"Because public employees provide this nation with invaluable information pertaining to the operations of the government bureaucracy, their free speech rights should not be denied in the absence of demonstrable harm to agency operations . . . . Society [must] not be deprived of speech about 'the manner in which government is operated or should be operated.'"

Nonpartisan speech in the police department: the aftermath of Pickering. Hastings constitutional law quarterly, v. 7, summer 1980: 1001-1029.
Comment maintains that the broad balancing test devised by the Supreme Court in Pickering v. Board of Education (1969) to determine the scope of a government employee's free expression rights will have a chilling effect on the exercise of those rights, seeing a dilemma for police using their free speech rights regarding nonpartisan matters.

Ogden, Warren C.
Common situs picketing and the "observer" phenomenon. Labor law journal, v. 33, Oct. 1982: 690-695.
Reviews NLRB decisions involving union use of "observers" at neutral gates.

Perritt, Henry H., Jr.
Am I my brother's keeper? Secondary picketing under the Norris-LaGuardia Act. Georgetown law journal, v. 68, Aug. 1980: 1191-1228.
"This article uses the recent litigation over secondary picketing in the railroad industry as a starting point for an analysis of secondary picketing under current American labor policy.

Potter, Edward E.
Freedom of association, the right to organize and collective bargaining--the impact on U.S. law and practice of ratification of ILO conventions no. 87 & no. 98. Washington, Labor Policy Association, c1984. 112 p.
Contents.--Convention no. 87--Freedom of association and protection of the right to organize.--The Federal-State problem with respect to ratification.--Procedural and substantive considerations concerning ratification of ILO conventions.

Pulliam, Mark S.
Union security clauses in public sector labor contracts and Abood v. Detroit Board of Education: a dissent. Labor law journal, v. 31, Sept. 1980: 539-546.
"Article explores the neglected free speech and association problems inherent in public sector union-security agreements."

Rubin, Mori.
To cross or not to cross: picket lines and employee rights. Industrial relations law journal, v. 4, no. 3, 1981: 419-447.

"Refusals to cross picket lines should be protected unless the employees knew or should have known that the underlying strike was unlawful."

Rubin, Richard S.
When the governed criticize their governors: parameters of public employees' free-speech rights. Employee relations law journal, v. 10, summer 1984: 106-119.
"The parameters of public employees' free-speech rights raise issues that remain unresolved . . . . [This] article examines significant cases that have addressed public employees' right to free speech."

Schneider, Mark, D.
Peaceful labor picketing and the First Amendment. Columbia law review, v. 82, Nov. 1982: 1469-1497.
Comment "contends that the asserted rationales for treating picketing differently from nonlabor speech are unconvincing, and that picketing is unprotected because it threatens business property rights."

Werhane, Patricia.
Individual rights in business. In Just business: new introductory essays in business ethics. Edited by Tom Regan. New York, Random House 1984. p. 100-128.
Analyzes "three specific rights--the rights to due process, to free expression, and to privacy--and we shall show how these are legitimate employee claims in the workplace."

Williams, Stuart A.
Distinguishing protected from unprotected campaign speech. Labor law journal, v. 33, May 1982: 265-281.
Article argues that the role of the National Labor Relations Board in the regulation of campaign statements should be diminished, thereby leaving the ultimate choice to the good sense of the electorate.

## N. NEW TECHNOLOGIES

Becker, Lynn.
Electronic publishing: First Amendment issues in the twenty-first century. Fordham urban law journal, v . 13, no. 4, 1984: 801-868.
"This Article concludes by proposing a regulatory approach to the new electronic communications based on extrapolations from the existing media models, and suggests guidelines for implementing a coherent national telecommunications policy."

Bogarad, Sharon.
Home video recording: a new legal controversy. Juris, v. 17, winter 1982: 6-7, 9, 13, 16.
"There are currently more than 3.5 million video recording devices in this country, with another 1.5 million expected to be sold this year. It is an area of rapid growth, both technologically and economically. Because of such growth, it has become an area of confusion and of conflict between First Amendment guarantees and recognized rights of intellectual property."

Cable television and the First Amendment. Washington, Media Institute, c1986. 16 p. (Issues in communications, 3)

Diamond, Edwin. Sandler, Norman. Mueller, Milton.
Telecommmunications in crisis: the First Amendment, technology, and deregulation. Washington, Cato Institute, 1983. 113 p.
Contends that technological advancements in telecommunication has eroded the scarcity rationale for government regulation of communication and proposes a free market in telecommunication.

Dubro, Alec.
Surveillance. Mother Jones, v. 9, Dec. 1984: 21-27,51.
Suggests that in evaluating potential infringements of personal and political rights from increased public and private surveillance, concerned citizens not worry about spy satellites or bugs and focus instead on police computers, wiretapping, private police, and data bases, the "one unqualified threat to your personal liberty and privacy."

Faines, George P.
Obscenity, cable television and First Amendment: will FCC regulation impair the marketplace of ideas? Duquesne law review, v. 21, summer 1983: 965-993.
"Cable TV should be afforded the same first amendment protection as newspapers, magazines, and other non-broadcast media."

First Amendment Rights and the Cable Television Industry (Washington : 1983)
Proceedings; sponsored by the Communications Media Center of New York Law School and Meckler Publishing, October 21-22, 1983. Communications and the law, v. 6, Oct. 1984: 43-79.
Contents.--Cable television and the First Amendment, by G. Robinson.--Content regulation of cable programming, by T. Krattenmaker.--Rights of excess: cable and the First Amendment, by D. Ginsburg.

Goroff, David B.
The First Amendment side effects of curing Pac-Man fever. Columbia law review, v. 84, Apr. 1984: 744-774.
Case note contends that courts have been misguided in denying video games First Amendment scrutiny. Developes a framework for gauging a medium's eligibility for First Amendment review. Argues that by adopting this framework of analysis "village boards can frame regulations in a manner that protects valid state interests while enabling video game enthusiasts to resume battling the space invaders and cease battling the courts."

Kellough, Patrick Heny.
Cable television and censorship: a bibliography. Montecello, Ill., Vance Bibliographies, 1985. 5 p. (Public administration series: bibliography P-1622)
"Journal articles, law cases and books form a list of research dealing with the problems associated with the censorship of cable television and the First Amendment."

Kreiss, Robert A.
Deregulation of cable television and the problem of access under the First Amendment. Southern California law review, v. 54, July 1981: 1001-1050.
Article examines the elements of cable broadcasting and analyzes the first amendment issues regarding licensing and access requirements.

Lively, Donald E.
Fear and the media: a First Amendment horror show. Minnesota law review, v. 69, May 1985: 1071-1097.
"The purpose of this Article is to trace the origins of the distrust, suspicion, and fear of the newer media; to demonstrate how fear of potential but poorly defined evil is a dominant force in shaping the perimeters of freedom of the press; and to consider opportunities for rejecting fear-based impulses in favor of sentiments more consistent with the purpose of the first amendment."

Martino, Joseph P.
Policy issues related to direct broadcast satellites. Washington, National Science Foundation, 1983. 68 l.
"NSF/PRA-83018"
Looks at policy issues raised by the use of direct broadcast satellites, including First Amendment protection for the electronic media.

McGrew, Thomas J.
Whose right is righter? Nation, v. 234, Mar. 20, 1982: 332-333, 335.
Notes that the Supreme Court will most likely decide whether the First Amendment forbids or requires public access to cable television.

Melnick, Alison.
Access to cable television: a critique of the affirmative duty theory of the First Amendment. California law review, v. 70, Dec. 1982: 1393-1420.
"The affirmative duty theory should not be extended to cable, and perhaps should be abandoned for all forms of communication. Courts and legislatures should return to the earlier interpretations of the first amendment where the guiding principle had been that government should not decide what cannot be said, or what must be said."

Mininberg, Mark.
Circumstances within our control: promoting freedom of expression through cable television. Hastings constitutional law quarterly, v. 11, summer 1984: 551-598.
"This Article contends that public access to cable television is not only good public policy, but that access is necessary to fulfill fundamental goals of the First Amendment freedom of speech."

Ogan, Christine L.
Media diversity and communications policy: impact of VCRs and satellite TV. Telecommunications policy, v. 9, Mar. 1985: 63-73.
"Videocassettes and satellite-delivered television programmes are having a profound effect on existing communication policies in the world."

Rein, Bert W., and others.
The constitutionality of the FCC's television-cable cross-ownership restrictions. Federal communications law journal, v. 34, winter 1982: 1-48.
Article concludes that "developing cable technology has made it clear that cable channels, unlike broadcast channels, are not a scarce resource and thus are constitutionally akin to printed publications. Attempts by the Commission to impose licensing restrictions on access to or ownership of cable facilities as a means of enhancing diversity or affecting content are thus squarely in conflict with the First Amendment."

Ross, David M.
Telecommunications: satellite regulation. Annual survey of American law, v. 1985, Mar. 1986: 439-454.
"Although the FCC seeks to encourage participation in the burgeoning satellite industry by limiting regulation of the field, federal legislation mandates that the communications industry be regulated to the degree necessary to serve the public interest. The recent changes demonstrated that although the FCC strongly prefers deregulation, the court believes satellite communications regulation is often necessary to meet the public interest requirement."

Schwartz, Robert.
Public access to cable television. Hastings law journal, v. 33, Mar. 1982: 1009-1044.
Comment discusses the effect of the Supreme Court's decision in FCC v. Midwest Video Corporation on the first amendment protection of free speech. The Court decided that the FCC had exceeded its authority by promulgating regulations requiring cable operators to leave a percentage of their available channels open for discriminatory public access without any editorial control by the operator.

Shapiro, George H. Kurland, Philip B. Mercurio, James P.
"Cablespeech": the case for First Amendment protection; a Time Incorporated study. New York, Law & Business, Inc., c1983. 258 p.

A Special symposium: the new technology in the communications industry--legal problems in a brave new world. Vanderbilt law review, v. 36, May 1983: 867-1091.

Contents.--Cable franchising and the First Amendment, by W. Lee.--Independent political action groups: new life for the fairness doctrine, by L. Ballard and C. Ferris.--Federal and state roles in telecommunications: the effects of deregulation, by E. Noam.--Global governance of global networks: a survey of transborder data flow in transition, by A. Branscomb.--Cable television's emerging two-way services: a dilemma for Federal and state regulators, by F. Lloyd.

Sullivan, John E.
First Amendment protection of artistic entertainment: toward reasonable municipal regulation of video games. Vanderbilt law review, v. 36, Oct. 1983: 1223-1276.
"Video game software, the driving force of all video game entertainment, is an artistic creation of a video game designer. Because the United States Supreme Court repeatedly has recognized that artistic expression and entertainment are forms of expression that the first amendment protects, video game software deserves first amendment protection."

Walter, Dave.
Lust on a hard disk. Advocate, no. 443, Apr. 1, 1986: 10-11, 13.
Examines the growth of gay-oriented computer bulletin boards and the controversy surrounding them, particularly regarding allegations that they are being used by pedophiles to exchange information about children.

Wheeler, Thomas E.
Looking to the cable age. ASIS bulletin, v. 7, June 1981: 22-25.
The National Cable Television Association asserts that "for First Amendment purposes, cable systems should be treated in the same manner as newspapers. Newspapers are accorded virtually unfettered freedom to publish what they choose to publish, regardless of what the government may wish to see published."

Witt, John W.
Cable television content regulation after Crisp: is there anything left? Urban lawyer, v. 17, spring 1985: 277-297.
"The present state of the law leaves little encouragement for efforts by local government to curtail cable programming which city council members know a significant number of their constituents find objectionable."

## II. FREEDOM OF EXPRESSION: A GUIDE TO SOURCES OF INFORMATION

Selected SEARCH TERMS are identified in the text. They are suggestive of some principal topics the researcher may wish to search under and are intended to help define a research strategy, not to limit it.

References to selected commercial databases and vendors are also identified. Such sources as DIALOG, NEXIS, and Wilsonline are among those which are commercially available.

## A. RESEARCH SOURCES

This is a listing of research tools described in this guide and pages where they are mentioned.


ABC POL SCI ..... 90
Bell & Howell Newspaper Indexes ..... 93
Business Periodicals Index ..... 90
CIS Index ..... 97
Congressional Quarterly Almanac ..... 96
Congressional Quarterly Weekly Report ..... 96
Congressional Record ..... 95
Congressional Record Abstract Files ..... 96
Constitution Annotated ..... 98
Current Law Index ..... 90
Digest of Public General Bills and Resolutions ..... 97
Dissertation Abstracts International ..... 95
Dissertation Abstracts Online ..... 95
Encyclopedia of Associations ..... 98
Federal Depository Library Program ..... 94
Government Reports Announcements and Index ..... 94
Index to Legal Periodicals ..... 90
Index to U.S. Government Periodicals ..... 95
Legal Resource Index ..... 91
Magazine Index ..... 91
Major Legislation of the Congress (MLC) ..... 97
Monthly Catalog of United States Government Publications ..... 94
National Journal ..... 96
National Newspaper Index ..... 93
National Technical Information Service (NTIS) ..... 94
NEWSSEARCH ..... 94
New York Times Index ..... 92
NEXIS ..... 94
Official Washington Post Index ..... 93
Public Affairs Information Service (PAIS) ..... 91
Readers' Guide to Periodical Literature ..... 91
Social Science Citation Index ..... 92
Social Sciences Index ..... 92
Wall Street Journal Index ..... 93
Washington Information Directory ..... 98
Weekly Compilation of Presidential Documents ..... 95

## B. BOOKS

Library of Congress subject headings are used in many library catalogs nationwide. This partial listing of subject headings may be used to identify books in the Library of Congress catalog and other library catalogs on freedom of expression issues.

SEARCH TERMS:

- Academic Freedom
- Censorship
  - See also subdivision Censorship under subjects, e.g.,
  - Libraries--Censorship
  - Mass media--Censorship
  - Moving pictures--Censorship
  - Text-books--Censorship
- Confidential communications--Press
- Free press and fair trial
- Freedom of information
- Freedom of speech
- Freedom of the press
- Libel and slander
- Newspaper court reporting
- Obscenity (Law)
- Teaching, Freedom of
- Trials (Libel)
- Trials (Obscenity)
- Trials (Pornography)
- Trials (Slander)

The search terms listed above may also be used for online commercial access to Library of Congress bibliographic records.

## C. JOURNAL ARTICLES

Citations to journal articles and other materials about freedom of expression can be found in a number of printed indexes and online bibliographic data bases. The materials covered by the printed indexes are briefly described here and the appropriate search terms are also listed.

Online bibliographic data bases enable the researcher to locate citations to journal articles and other materials quickly by using a computer terminal to search a machine-readable file. Online data bases allow the researcher to combine search terms in ways more efficient than a printed index or library catalog permits and to simultaneously search material covering several years. The availability of various indexes online is indicated in the description of the tools.

> ABC POL SCI (A Bibliography of Contents: Political Science & Government)

This is a guide to current periodical literature in the field of political science and government as well as in the related disciplines of sociology, law, and history. Started in 1969 and published five times a year, it reproduces edited tables of contents of about 300 international journals.

SEARCH TERMS:
- Freedom of expression
- Freedom of speech
- Freedom of the press
- Obscenity
- Television

> BUSINESS PERIODICALS INDEX

Business Periodicals Index is a subject index to articles appearing in English language business periodicals. The Index is issued monthly and cumulated quarterly and annually and is available online commercially through Wilsonline.

SEARCH TERMS:
- Academic freedom
- Censorship
  - See also terms using subdivision Censorship, e.g., Newspapers--Censorship
- Confidential communications--Press
- Freedom of information
- Freedom of speech
- Freedom of the press
- Libel and slander
- Obscenity
- Pornography

> CURRENT LAW INDEX

Current Law Index covers over 700 law periodicals selected by an advisory board of the American Association of Law Libraries. It is published in eight monthly issues, three quarterly cumulations and a single annual cumulation. Library of Congress subject headings, with supplemental terms approved by the Association, are the Index's subject authority. Therefore, see SEARCH TERMS under BOOKS, above.

> INDEX TO LEGAL PERIODICALS

The Index to Legal Periodicals is a subject and author index to legal articles, yearbooks, institutes, and reviews of works published in the United States, Canada, Great Britain, Ireland, Australia, and New Zealand. Tables of cases and statutes commented upon are appended. The Index is published monthly, except September, with a bound cumulation each year and is available online commercially through Wilsonline.

SEARCH TERMS:
- Censorship
- Freedom of information
- Freedom of speech
- Freedom of the press
- Libel and slander

READEX FICHE best copy available

Obscenity
Privileged communications
Right to a fair trial

> LEGAL RESOURCE INDEX (MICROFILM)

Legal Resource Index is the companion microfilm service of the Current Law Index, above. It is available online commercially through the Lockheed DIALOG Information Service as file 150.

> MAGAZINE INDEX (MICROFILM)

Magazine Index provides citations to materials in over 435 popular magazines. The Index is available online commercially as DIALOG file 47. The full text of over 50 of the magazines indexed since 1983 may also be retrieved.

> PUBLIC AFFAIRS INFORMATION SERVICE BULLETIN (PAIS)

PAIS is a subject index of books, pamphlets, government publications, reports of public and private agencies, and periodical articles relating to economic and social conditions, public administration, and international relations. PAIS is available online commercially as DIALOG file 49.

SEARCH TERMS:
Academic freedom
Censorship
See also terms using subdivision Censorship, e.g.,
Newspapers--Censorship
Theater--Censorship
Free press and fair trial
Freedom of information
Freedom of speech
Freedom of the press
Libel and slander
Obscenity
Pornography
Science, Freedom of

> READERS' GUIDE TO PERIODICAL LITERATURE

The Readers' Guide is an author/subject index to periodicals of general interest published in the U.S. It is available online commercially through Wilsonline.

SEARCH TERMS:
Academic freedom
Censorship
See also term using subdivision Censorship, e.g.,
Art--Censorship
Motion pictures--Censorship
Television broadcasting--Censorship
Textbooks--Censorship
Videotapes--Censorship
Freedom of information
Freedom of speech
Freedom of the press

Libel and slander
Obscenity
Pornography
Science, Freedom of

> SOCIAL SCIENCE CITATION INDEX

Social Science Citation Index is "an international interdisciplinary index to the literature of the social sciences" in more than 1500 journals. It includes citation, source, address of the institution where the research was done, and Permuterm subject indexes. The Index is available online as DIALOG file 7.

> SOCIAL SCIENCES INDEX

The Social Sciences Index is a cumulative index to English language periodicals in the fields of area studies, economics, geography, political science, public administration, sociology, and other social science subjects. The Index is published quarterly with a bound cumulation issued each year and is available online commercially through Wilsonline.

SEARCH TERMS:
Academic freedom
Censorship
See also terms using the subdivision Censorship, e.g.,
Television programs--Censorship
Videotapes--Censorship
Civil rights
Freedom of information
Freedom of speech
Freedom of the press
Libel and slander
Obscenity

## D. NEWSPAPER ARTICLES

The following indexes may be used to locate newspaper articles on freedom of expression issues.

> NEW YORK TIMES INDEX

The New York Times Index provides extensive abstracts for articles appearing in the New York Times. It is available online through NEXIS.

SEARCH TERMS:
Censorship
Freedom of speech
Freedom of the press
Libel and slander
Pornography and obscenity

> BELL & HOWELL NEWSPAPER INDEXES

The Bell & Howell Newspaper Indexes list articles appearing in the Chicago Tribune, Chicago Sun-Times, Christian Science Monitor, Denver Post, Detroit News, Houston Post, Los Angeles Times, New Orleans Times-Picayune, San Francisco Chronicle, and Washington Post.

SEARCH TERMS:
- Academic freedom
- Censorship
- Freedom of information
- Freedom of speech, expression & assembly
- Freedom of the press
- Libel & slander
- Pornography & obscenity

> OFFICIAL WASHINGTON POST INDEX

The Index provides access to all substantial newsworthy items in this paper. It is available online as DIALOG file 184.

SEARCH TERMS:
- Censorship
  - See also terms using the subdivision Censorship, e.g.,
    - Arts--Censorship
    - Moving-pictures--Censorship
    - Phonorecords--Censorship
- Freedom of information
- Liberty of speech
- Liberty of the press
- Obscenity (Law)
- Pornography
- Teaching, Freedom of

> WALL STREET JOURNAL INDEX

Since 1984, the Index has appeared in two parts, one indexing Corporate News and the other indexing General News.

SEARCH TERMS:
- Censorship
- Civil rights
- Libel
- Media
- Newspapers
- Pornography
- Radio
- Television

> NATIONAL NEWSPAPER INDEX

National Newspaper Index, produced by Information Access Corporation, is available online as DIALOG file 111 and provides front-page to back-page indexing on current affairs topics in the Christian Science Monitor, New York Times, Wall Street Journal, Los Angeles Times, and the Washington Post.

> NEXIS

The NEXIS online library provides access to wire service articles from the Associated Press, United Press International, and Reuters, articles from the Washington Post and journal articles. The journals indexed include Newsweek and U.S. News & World Report. In addition to providing citations and abstracts of the materials included in the data base, NEXIS makes the full text of the articles available online. NEXIS also provides access to the New York Times Information Bank, which is a current affairs data base containing citations to the New York Times and over 60 newspapers and journals.

> NEWSSEARCH

Newssearch is the daily update of Magazine Index, National Newspaper Index, and Legal Resource Index in DIALOG as file 211. It provides front-page to back-page indexing of the Christian Science Monitor, Wall Street Journal, and New York Times, as well as popular magazines, law journals, and legal newspapers.

## E. GOVERNMENT PUBLICATIONS

> FEDERAL DEPOSITORY LIBRARY PROGRAM

Under this program, Government publications are made available to designated depository libraries. In order to provide the general public with greater access to Government publications, these libraries are located in each State and congressional district. There are currently over 1,350 depository libraries. Of this number, 50 have been designated as regional depositories. The regional libraries assume the responsibility of retaining depository material permanently and of providing inter-library loan and reference service in their regions. Copies of documents no longer available for sale can usually be found in regional Federal depository library collections. Each issue of the Monthly Catalog of United States Government Publications (see below) prints a current directory of these regional libraries. A directory of all depository libraries is available from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

> GOVERNMENT REPORTS ANNOUNCEMENTS AND INDEX

Government research reports are indexed in the Government Reports Announcements and Index, which is issued twice monthly by the National Technical Information Service (NTIS). A keyword index lists significant words from titles. The NTIS index is available online commercially as DIALOG file 6.

> MONTHLY CATALOG OF UNITED STATES GOVERNMENT PUBLICATIONS

The Monthly Catalog lists documents issued by all branches of the Federal Government. The catalog has monthly, semiannual, and annual indexes arranged by author, title, subject, keywords, and series/report title. The Monthly Catalog is often the access point for materials in Government depository libraries; it may also be used to obtain information for ordering materials for purchase from the Superintendent of Documents at the U.S. Government Printing

Office. The Monthly Catalog is commercially available online on DIALOG file 66. Library of Congress subject headings are the catalog's subject authority. Therefore, see SEARCH TERMS under BOOKS, above.

> WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS

The Weekly Compilation of Presidential Documents contains statements, messages, and other Presidential materials released by the White House during the preceding week. The Weekly Compilation has weekly, quarterly, and annual indexes. It is also available online through NEXIS.

> INDEX TO U.S. GOVERNMENT PERIODICALS

The Index covers periodical articles published by over 100 Federal agencies, using a thesaurus created exclusively for itself.

SEARCH TERMS:
- Censorship
- Freedom--of information
- Freedom--of speech
- Freedom--of the press
- Libel and slander
- Pornography
- Television

## F. DISSERTATIONS

Dissertation Abstracts International (DAI) is a monthly list of doctoral dissertations submitted to University Microfilms International by more than 450 academic institutions in the United States and Canada. DAI is divided into two sections: Humanities (A) and Science (B). Keyword title and author indexes are provided each month for each section. The author index is cumulated annually. A retrospective Comprehensive Dissertation Index (CDI) is a subject index and is available, grouped by disciplines of knowledge (e.g., law and political science, history) for 1861-1972 in 32 volumes, and for 1973-1979 in 16 volumes. DAI is commercially available online as DIALOG file 35, where it is called Dissertation Abstracts Online.

## G. LEGISLATIVE INFORMATION

Congressional activities on freedom of expression issues may be monitored by searching the following printed publications.

> CONGRESSIONAL RECORD

The Congressional Record provides an edited transcript of the activities on the floor of the House and the Senate. It is published each day Congress is in session. Subject and name indexes are published biweekly and cumulated annually.

SEARCH TERMS: Freedom of information
Freedom of speech
Freedom of the press
Pornography
Television

> CONGRESSIONAL RECORD ABSTRACT FILES

The Congressional Record Abstract Files (CR) contain abstracts of material in the Congressional Record from the 94th Congress, 2nd session to the present. A typical entry includes the abstract, bill numbers, indexing terms, and page number references to the full text of the Congressional Record, and the date of the Record. These files have full-text retrieval capabilities, making it possible for the researcher to formulate his/her own search terms in addition to using terms which are part of a controlled searching vocabulary. The CR files are commercially available as DIALOG file 135.

SEARCH TERM: Civil liberties--Freedom of speech and press

## H. BILLS AND RESOLUTIONS

> CONGRESSIONAL QUARTERLY WEEKLY REPORT

Congressional Quarterly Weekly Report provides current information on congressional activities, the progress of major bills, and background information on major policy issues. Important recent articles are indexed on the back cover of each issue. Consult this index under the headings "Law/judiciary" and "Supreme Court." A quarterly and an annual index are also issued. Congressional Quarterly also publishes an annual publication which cumulates material appearing in the weekly reports during a year. This publication is entitled CQ Almanac. Congressional Quarterly Weekly Report is available online through NEXIS.

SEARCH TERMS: Civil Rights
Defense--Espionage and security
Freedom of speech
Freedom of the press

> CONGRESSIONAL QUARTERLY ALMANAC

See description above.

SEARCH TERMS: Espionage
Freedom of speech
Freedom of the press

> NATIONAL JOURNAL

National Journal provides information on important executive branch and congressional actions. In addition to the annual index, the back cover of each issue also contains a brief index to recent articles. Consult this index under the heading "Legal affairs."

SEARCH TERMS:
Civil rights
Legal affairs
Media
Television industry

> DIGEST OF PUBLIC GENERAL BILLS AND RESOLUTIONS

The Digest summarizes the essential features of public bills and resolutions and changes made in them during the legislative process. The Digest is published during each session of Congress in two cumulative issues and a final issue at the conclusion of the session. The Digest has sponsor/cosponsor, identical bills, short title, and subject indexes.

SEARCH TERMS:
Civil rights and liberties--Freedom of speech
Communications and broadcasting
Crimes and crime prevention--Pornography
Government records, documents, and information--Freedom of information
Newspapers and periodicals

> MAJOR LEGISLATION OF THE CONGRESS (MLC)

The MLC provides summaries of selected major legislation arranged by subject. It includes background information on each issue and on the content and status of major bills affecting that issue. The publication may be examined at a Government depository library or purchased from the Government Printing Office. Search under the headings "Civil rights and liberties," "Communications," and "Information and privacy."

## I. CONGRESSIONAL PUBLICATIONS

> CIS INDEX (Index to the Publications of the United States Congress)

The CIS Index, produced by the Congressional Information Service, abstracts all congressional publications with the exception of the Congressional Record. The Index is published monthly and cumulated quarterly and annually. Each issue of the Index is divided into index and abstract portions. The Index is commercially available online on DIALOG file 101.

SEARCH TERMS:
Censorship
Freedom of information
Freedom of speech
Freedom of the press
Libel and slander
Obscenity and pornography

Copies of congressional hearings and committee prints may be found in the collections of Government depository libraries.

> CONSTITUTION ANNOTATED

Published in 1973 as Senate Document No. 92-82, the Constitution Annotated (formally called The Constitution of the United States of America: Analysis and Interpretation) presents "annotations of cases decided by the Supreme Court of the United States to June 29, 1972." Supplements have been issued for 1976 (Senate Document No. 94-200), 1978 (Senate Document No. 96-26), and 1980 (Senate Document No. 96-64), which carry the annotations of cases to July 2, 1980. Most useful to discussions on freedom of expression are the chapter on Amendments to the Constitution: First Through Tenth Amendments (p. 895-907) and the subchapter on Freedom of Expression--Speech and Press (p. 936-1030) in the chapter on First Amendment: Religion and Expression. It is anticipated that a new edition of the Constitution Annotated will be published in November 1986.

## J. AGENCIES AND ORGANIZATIONS

There are numerous agencies and organizations concerned with freedom of expression issues as part of their mission or overall interest. Two useful directories for finding out about them are the Encyclopedia of Associations and the Washington Information Directory.

> ENCYCLOPEDIA OF ASSOCIATIONS

The Encyclopedia lists approximately 20,000 national and international organizations, including name, address, telephone number, leadership, description of interests, and publications. It is indexed by key word, so relevant organizations may be found by using some of the SEARCH TERMS used earlier in this research guide, e.g., Freedom, Press, Speech, Civil Liberties, and the like.

> WASHINGTON INFORMATION DIRECTORY

Published by Congressional Quarterly, the Directory arranges sources of information by subject in (1) the Federal departments and agencies, (2) Congress, and (3) private, non-profit groups in the Washington, D.C. area. This annual compilation lists names, addresses, telephone numbers, officials, nd an explanation of the groups' work and responsibilities. Likely sources on freedom of expression issues may be found in chapters on "Law and Justice" (see the section there on "Constitutional Law and Civil Liberties") and "Communication and the Media."

## K. LEGAL CASES INVOLVING FREEDOM OF EXPRESSION: A CHRONOLOGICAL LIST

This listing of cases should not be taken to be authoritative or definitive. It is intended as a beginning look at some actual decisions that most commentators agree are significant in the development of the law of free speech and press.

The name of each case is followed by the citation to its official source in legal style. As an example, 408 U.S. 1063 means that the text of the decision begins on page 1063 of volume 408 of United States Reports, the

official reporter of Supreme Court decisions. Almost all the decisions given are by the Supreme Court. Other references are to decisions of a Federal Circuit Court of Appeals (F.2d) or a Federal District Court (F.Supp.). A reference to a decision for which an official citation is not yet available is given unofficially to United States Law Week (U.S.L.W.).

| | | |
|---|---|---|
| 1919 | Schenck v. United States | 249 U.S. 47 |
| | Abrams v. United States | 250 U.S. 616 |
| 1925 | Gitlow v. New York | 268 U.S. 652 |
| 1931 | Stromberg v. California | 283 U.S. 359 |
| | Near v. Minnesota | 283 U.S. 697 |
| 1937 | Herndon v. Lowry | 301 U.S. 242 |
| 1939 | Hague v. CIO | 307 U.S. 496 |
| 1940 | Thornhill v. Alabama | 310 U.S. 88 |
| 1942 | Chaplinsky v. New Hampshire | 315 U.S. 568 |
| 1943 | West Virginia State Board of Education v. Barnette | 319 U.S. 624 |
| 1946 | Marsh v. Alabama | 326 U.S. 501 |
| 1948 | Saia v. New York | 334 U.S. 558 |
| 1949 | Kovacs v. Cooper | 336 U.S. 77 |
| 1951 | Dennis v. United States | 341 U.S. 494 |
| 1952 | Beauharmais v. Illinois | 343 U.S. 250 |
| | Public Utilities Commission of the District of Columbia v. Pollak | 343 U.S. 451 |
| 1957 | Yates v. United States | 354 U.S. 298 |
| | Roth v. United States | 354 U.S. 476 |
| 1959 | Uphaus v. Wyman | 360 U.S. 72 |
| 1960 | Shelton v. Tucker | 364 U.S. 479 |
| 1961 | Times Film Corporation v. Chicago | 365 U.S. 43 |
| | Konigsberg v. State Bar of California | 366 U.S. 36 |
| 1964 | New York Times Co. v. Sullivan | 376 U.S. 254 |

| | | |
|---|---|---|
| 1965 | Estes v. Texas | 318 U.S. 532 |
| 1966 | Memoirs of a Woman of Pleasure v. Attorney General of Massachusetts | 383 U.S. 413 |
| 1967 | Keyishian v. Board of Regents | 385 U.S. 589 |
| 1968 | United States v. O'Brien | 391 U.S. 367 |
| 1969 | Tinker v. Des Moines School District | 393 U.S. 503 |
| | Red Lion Broadcasting Co. v. FCC | 395 U.S. 367 |
| | Brandenburg v. Ohio | 395 U.S. 444 |
| 1971 | Cohen v. California | 403 U.S. 15 |
| | New York Times Co. v. United States | 403 U.S. 713 |
| 1972 | Branzburg v. Hayes | 408 U.S. 665 |
| | United States v. Marchetti | 409 U.S. 1063 |
| 1973 | CBS v. Democratic National Committee | 412 U.S. 94 |
| | Miller v. California | 413 U.S. 15 |
| | Paris Adult Theater v. Slaton | 413 U.S. 49 |
| | Broaderick v. Oklahoma | 413 U.S. 601 |
| 1974 | Arnett v. Kennedy | 416 U.S. 134 |
| | Jenkins v. Georgia | 418 U.S. 153 |
| | Miami Herald Publishing Co. v. Tornillo | 418 U.S. 241 |
| | Gertz v. Robert Welch, Inc. | 418 U.S. 323 |
| 1975 | Buckley v. Valeo | 424 U.S. 1 |
| 1976 | Lloyd Corporation v. Tanner | 424 U.S. 507 |
| | Greer v. Spock | 424 U.S. 828 |
| | Virginia State Board of Pharmacy v. Virginia Citizen's Consumer Council | 425 U.S. 478 |
| | Nebraska Press Association v. Stuart | 427 U.S. 539 |

| | | |
|---|---|---|
| 1977 | Wooley v. Maynard | 430 U.S. 705 |
| | National Socialist Party of America v. Village of Skokie | 432 U.S. 40 |
| | Bates v. State Bar of Arizona | 433 U.S. 350 |
| 1978 | First National Bank of Boston v. Bellotti | 435 U.S. 765 |
| | FCC v. Pacifica Foundation | 438 U.S. 726 |
| 1979 | Herbert v. Lando | 441 U.S. 153 |
| | United States v. The Progressive | 467 F. Supp. 990 (WD Wisc) |
| 1980 | Snepp v. United States | 444 U.S. 507 |
| | Central Hudson Gas and Electric v. Public Service Commission | 447 U.S. 557 |
| | Richmond Newspapers v. Virginia | 448 U.S. 555 |
| 1982 | Board of Education v. Pico | 457 U.S. 863, 872 |
| | New York v. Ferber | 458 U.S. 747 |
| 1983 | McGehee v. Casey | 718 F.2d 1137 |
| 1984 | Clark v. Community for Creative Non-Violence | 468 U.S. 288 |
| 1986 | Bethel School District No. 403 v. Fraser | ___ U.S.___(54 U.S.L.W. 5054) |

○